SB 3 [CCS HCS#2 SS SCS SB 3]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts provisions on mental health reform

AN ACT to repeal sections 565.184, 630.005, 630.140, 630.165, 630.167, 630.725, and 630.755, RSMo, and to enact in lieu thereof nineteen new sections relating to mental health, with penalty provisions.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 565.184, 630.005, 630.140, 630.165, 630.167, 630.725, and 630.755, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 565.184, 565.210, 565.212, 565.214, 565.216, 565.218, 565.220, 630.005, 630.127, 630.140, 630.163, 630.165, 630.167, 630.725, 630.755, 630.925, 630.927, 630.950, and 630.975, to read as follows:

565.184. ELDER ABUSE IN THE THIRD DEGREE — PENALTY. — 1. A person commits the crime of elder abuse in the third degree if he:

(1) Knowingly causes or attempts to cause physical contact with any person sixty years of age or older or an eligible adult as defined in section 660.250, RSMo, knowing the other person will regard the contact as harmful or provocative; or

(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a person sixty years of age or older or an eligible adult, as defined in section 660.250, RSMo. The course of conduct shall be such as would cause a reasonable person age sixty years of age or older or an eligible adult, as defined in section 660.250, RSMo, to suffer substantial emotional distress; or

(3) Purposely or knowingly places a person sixty years of age or older or an eligible adult, as defined in section 660.250, RSMo, in apprehension of immediate physical injury; or

(4) Intentionally fails to provide care, goods or services to a person sixty years of age or older or an eligible adult, as defined in section 660.250, RSMo. The **[**cause**]** **result** of the conduct shall be such as would cause a reasonable person age sixty or older or an eligible adult, as defined in section 660.250, RSMo, to suffer physical or emotional distress; or

(5) Knowingly acts or knowingly fails to act in a manner which results in a grave risk to the life, body or health of a person sixty years of age or older or an eligible adult, as defined in section 660.250, RSMo.

2. Elder abuse in the third degree is a class A misdemeanor.

565.210. VULNERABLE PERSON ABUSE IN THE FIRST DEGREE, PENALTY. — 1. A person commits the crime of vulnerable person abuse in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to, a vulnerable person, as defined in section 630.005, RSMo.

2. Vulnerable person abuse in the first degree is a class A felony.

565.212. VULNERABLE PERSON ABUSE IN THE SECOND DEGREE, PENALTY. — 1. A person commits the crime of vulnerable person abuse in the second degree if he or she:

(1) Knowingly causes or attempts to cause physical injury to a vulnerable person, as defined in section 630.005, RSMo, by means of a deadly weapon or dangerous instrument; or

(2) Recklessly causes serious physical injury to any vulnerable person, as defined in section 630.005, RSMo.

2. Vulnerable person abuse in the second degree is a class B felony.

565.214. VULNERABLE PERSON ABUSE IN THE THIRD DEGREE, PENALTY. — 1. A person commits the crime of vulnerable person abuse in the third degree if he or she:

(1) Knowingly causes or attempts to cause physical contact with any vulnerable person as defined in section 630.005, RSMo, knowing the other person will regard the contact as harmful or offensive; or

(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a vulnerable person, as defined in section 630.005, RSMo. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, RSMo, to suffer substantial emotional distress; or

(3) Purposely or knowingly places a vulnerable person, as defined in section 630.005, RSMo, in apprehension of immediate physical injury; or

(4) Intentionally fails to provide care, goods or services to a vulnerable person, as defined in section 630.005, RSMo. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, RSMo, to suffer physical or emotional distress; or

(5) Knowingly acts or knowingly fails to act with malice in a manner that results in a grave risk to the life, body or health of a vulnerable person, as defined in section 630.005, RSMo; or

(6) Is a person who is a vendor, provider, agent, or employee of a department operated, funded, licensed, or certified program and engages in sexual contact, as defined by subdivision (3) of section 566.010, RSMo, or sexual intercourse, as defined by subdivision (4) of section 566.010, RSMo, with a vulnerable person.

2. Vulnerable person abuse in the third degree is a class A misdemeanor.

3. Actions done in good faith and without gross negligence that are designed to protect the safety of the individual and the safety of others, or are provided within accepted standards of care and treatment, shall not be considered as abuse of a vulnerable person as defined in this section.

4. Nothing in this section shall be construed to mean that a vulnerable person is abused solely because such person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or her health care, as evidenced by the vulnerable person's explicit consent, advance directive for health care, or practice.

565.216. INVESTIGATION OF REPORTS OF VULNERABLE PERSON ABUSE, WHEN. — The department of mental health shall investigate incidents and reports of vulnerable person abuse using the procedures established in sections 630.163 to 630.167, RSMo, and, upon substantiation of the report of vulnerable person abuse, shall promptly report the incident to the appropriate law enforcement agency and prosecutor. If the department is unable to substantiate whether abuse occurred due to the failure of the operator or any of the operator's agents or employees to cooperate with the investigation, the incident shall be promptly reported to appropriate law enforcement agencies.

565.218. MANDATORY REPORTING OF VULNERABLE PERSON ABUSE. — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, physical therapist, pharmacist, other health practitioner, minister, Christian Science practitioner, facility administrator, nurse's aide or orderly in a residential facility, day program or specialized service operated, funded or licensed by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo; or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; mental health professional; peace officer; probation or parole officer; or other nonfamilial person with responsibility for the care of a vulnerable person, as defined by section 630.005, RSMo, has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163, RSMo. Any other person who becomes aware of circumstances which may reasonably be expected to be the result of or result in abuse or neglect may report to the department. Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not be considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not be considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not be considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program or specialized service operated, funded or licensed by the department that prevents or discourages a patient, resident or client, employee or other person from reporting that a patient, resident or client of a facility, program or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760, and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

565.220. IMMUNITY FROM LIABLIITY, WHEN. — Any person, official or institution complying with the provisions of section 565.218, in the making of a report, or in cooperating with the department in any of its activities pursuant to sections 565.216 and 565.218, except any person, official, or institution violating section 565.210, 565.212, or 565.214 shall be immune from any civil or criminal liability for making such a report, or in cooperating with the department, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

630.005. DEFINITIONS. — As used in this chapter and chapters 631, 632, and 633, RSMo, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005, RSMo;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by mental retardation, developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, mental retardation, developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize the mentally retarded or developmentally disabled person's abilities to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are mentally retarded, including developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for mentally retarded or developmentally disabled residents and clients, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for mentally disordered or mentally ill patients and clients, and which details the treatment program as required by law, rules and funding sources;

(20) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some mentally disordered or mentally retarded persons, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632, RSMo;

(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

(a) Mental retardation, developmental disability or narcolepsy;

(b) Simple intoxication caused by substances such as alcohol or drugs;

(c) Dependence upon or addiction to any substances such as alcohol or drugs;

(d) Any other disorders such as senility, which are not of an actively psychotic nature;

(24) "Mental retardation", significantly subaverage general intellectual functioning which:

(a) Originates before age eighteen; and

(b) Is associated with a significant impairment in adaptive behavior;

(25) "Minor", any person under the age of eighteen years;

(26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632, RSMo;

(27) "Psychosurgery",

(a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or

(b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;

(28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;

(29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;

(30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;

(31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, mental retardation, developmental disabilities or alcohol or drug abuse; except the person's dwelling;

(32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, mental retardation, developmental disabilities or alcohol or drug abuse;

(33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients**;**

(34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

630.127. NOTIFICATION PROTOCOLS — RULEMAKING AUTHORITY. — 1. The department of mental health shall develop rules, guidelines, and protocols for an initial notification to a parent or guardian of a patient, resident, or client when first entering the care and custody of the department, or when first entering a facility licensed, certified, or funded by the department. Such notification shall notify the parent or guardian, or a consumer who is his or her own guardian, of the possibility of a person being placed in the facility with the patient, resident, or client, who falls in one of the following categories:

(1) Individuals who are required to register as a sexual offender, under sections 589.400 to 589.425, RSMo; or

(2) Individuals who have been determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo, for offenses the person would have otherwise been required to register as a sexual offender under sections 589.400 to 589.425, RSMo.

2. Such rules, guidelines and protocols developed under subsection 1 of this section shall include the process and mechanisms for assessing risk, for planning and providing care and safety, and for the provision of services and supports necessary to mitigate risk for persons residing in a state facility or facility licensed, certified, or funded by the department. Such protocols shall also provide a mechanism for the parent or guardian, or the consumer who is his or her own guardian, to raise any concerns and to seek consultation about the placement.

3. The department of mental health shall develop rules, guidelines, and protocols for notifying a parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian, residing in a state facility or facility licensed, certified, or funded by the department, that a person required to register as a sexual offender under sections 589.400 to 589.425, RSMo, is residing in or has been placed in the same state facility, or facility licensed, certified, or funded by the department as the patient, resident, or client. Such protocols shall provide a mechanism for the parent or guardian, or the consumer who is his or her own guardian, to raise any concerns and to seek consultation prior to placement of the person required to register as a sexual offender.

4. The department of mental health shall develop rules, guidelines, and protocols to obtain consent from the parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian and who falls under the category in subdivision (2) of subsection 1 of this section to disclose his or her name and criminal charges to other parents or guardians of a patient, resident, or client, or to a consumer who is his or her own guardian residing in the same facility. Such request for disclosure shall inform all parties of the steps to be taken in the event consent to disclose is given or denied. Refusal to grant consent under this subsection by a parent or guardian of a patient, resident, or client, or a consumer who is his or her own guardian, of a facility licensed, certified, or funded by the department, shall not prevent placement.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo.

630.140. RECORDS CONFIDENTIAL, WHEN — MAY BE DISCLOSED, TO WHOM, HOW, WHEN — RELEASE TO BE DOCUMENTED — COURT RECORDS CONFIDENTIAL, EXCEPTIONS. — 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;

(2) The guardian or other person having legal custody of the patient, resident or client;

(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632, RSMo.

3. The facilities or services may disclose information and records under any of the following:

(1) As authorized by the patient, resident or client;

(2) To persons or agencies responsible for providing health care services to such patients, residents or clients;

(3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such

research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

(5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

(6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;

(7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

(8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632, RSMo;

(9) To the department of social services or the department of health and senior services as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client;

(11) To parents, legal guardians, treatment professionals, law enforcement officers, and other individuals who by having such information could mitigate the likelihood of a suicide. The facility treatment team shall have determined that the consumer's safety is at some level of risk.

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632, RSMo, shall be confidential and available only to the patient, the patient's attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, and to the petitioner and the petitioner's attorney**, and to the Missouri state highway patrol for reporting to the National Instant Criminal Background Check System (NICS)**. In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this section.

630.163. MANDATORY REPORTING REQUIREMENTS. — 1. Any person having reasonable cause to suspect that a vulnerable person presents a likelihood of suffering serious physical harm or is the victim of abuse or neglect shall report such information to the department. Reports of vulnerable person abuse received by the departments of health and senior services and social services shall be forwarded to the department.

2. The report shall be made orally or in writing. It shall include, if known:

(1) The name, age, and address of the vulnerable person;

(2) The name and address of any person responsible for the vulnerable person's care;

(3) The nature and extent of the vulnerable person's condition; and

(4) Other relevant information.

3. The department shall have primary responsibility for investigating reported incidents of abuse and neglect of vulnerable persons.

4. Reports regarding persons determined not to be vulnerable persons as defined in section 630.005 shall be referred to the appropriate state or local authorities.

5. The department shall collaborate with the departments of health and senior services and social services to maintain a statewide toll free phone number for receipt of reports.

630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY. — 1. When any physician, **physician assistant,** dentist, chiropractor, optometrist, podiatrist, intern, **resident,** nurse, **nurse practitioner,** medical examiner, social worker, **licensed professional counselor, certified substance abuse counselor,** psychologist, **other health practitioner,** minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide or orderly in a residential facility, day program or specialized service operated, funded or licensed by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or employee of the **[**department**]** **departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service** has reasonable cause to **[**believe**]** **suspect** that a patient, resident or client of a facility, program or service has been **[**abused or neglected, he or she shall immediately report or cause a report to be made to the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, RSMo**]** **subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163**.

2. **[**The report shall contain the name and address of the residential facility, day program or specialized service; the name of the patient, resident or client; information regarding the nature of the abuse or neglect; the name of the complainant, and any other information which might be helpful in an investigation**]** **Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes**.

3. **[**Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of an infraction**]** **Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes**.

4. **[**In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that a resident has been abused or neglected may report such information to the department**]** **Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes**.

5. **[**Any person who knowingly files a false report of abuse or neglect is guilty of a class A misdemeanor**]** **Every person who has been previously convicted of or pled guilty to**

making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

6. **[**Any person having a prior conviction of filing false reports and who subsequently files a false report of abuse or neglect pursuant to this section or section 565.188, RSMo, is guilty of a class D felony**] Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions**.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, or client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE. — 1. Upon receipt of a report, the department or its agents, contractors or vendors or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) **Except as otherwise provided in this section,** reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo**[**; except that complete copies of all such reports shall be open and available**]. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after the effective date of this section are open and shall be available for release in accordance with chapter 610, RSMo. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, RSMo, the custodial parent or guardian parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released** to the parents or other guardian of the

patient, resident, or client who is the subject of such report, **patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect,** but the names and any other descriptive information of the complainant or **any** other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. **Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475, RSMo, may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475, RSMo.** All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section 36.390, RSMo, or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential;

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035, RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee;

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection;

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with

developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

(1) Good cause exists for the untimely commencement of the request for the review;

(2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and

(3) There is no other adequate remedy at law.

630.725. DENIAL OR REVOCATION — APPEAL — DETERMINATION BY ADMINISTRATIVE HEARING COMMISSION — NOTICE OF REVOCATION, WHEN. — 1. The department shall revoke a license or deny an application for a license in any case in which it finds a substantial failure to comply with the standards established under its rules or the requirements established under sections 630.705 to 630.760.

2. Any person aggrieved by the action of the department to deny or revoke a license under the provisions of sections 630.705 to 630.760 may seek a determination of the department director's decision by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing or exhaust any other procedure within the department.

3. The administrative hearing commission may stay the revocation of such license, pending the commission's finding and determination in the cause, upon such conditions as the commission deems necessary and appropriate including the posting of bond or other security except that the commission shall not grant a stay or if a stay has already been entered shall set aside its stay, if upon application of the department the commission finds reason to believe that continued operation of a residential facility or day program pending the commission's final determination would present an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result. In any case in which the department has refused to issue a license, the commission shall have no authority to stay or to require the issuance of a license pending final determination by the commission.

4. The administrative hearing commission shall make the final decision as to the issuance or revocation of a license. Any person aggrieved by a final decision of the administrative hearing commission, including the department, may seek judicial review of such decision by filing a petition for review in the court of appeals for the district in which the facility or program is located. Review shall be had, except as modified herein, in accordance with the provisions of sections 621.189 and 621.193, RSMo.

5. The department of mental health shall notify the department of health and senior services within ten days of revoking a license under this section. If the department of health and senior services has not already done so, the department of health and senior services shall within thirty days of notification from the department of mental health, initiate an investigation of the facility to determine whether licensure action under sections 198.022 or 198.036, RSMo, is appropriate.

630.755. INJUNCTIVE RELIEF MAY BE REQUESTED — ACTION TO HAVE PRIORITY — CIVIL PENALTIES MAY BE ASSESSED, PROCEDURE. — 1. An action may be brought by the department, or by the attorney general on his own volition or at the request of the department or any other appropriate state agency, to temporarily or permanently enjoin or restrain any violation of sections 630.705 to 630.760, to enjoin the acceptance of new residents until substantial compliance with sections 630.705 to 630.760 is achieved, or to enjoin any specific action or practice of the residential facility or day program. Any action brought under the provisions of this section shall be placed at the head of the docket by the court and the court shall hold a hearing on any action brought under the provisions of this section no less than fifteen days after the filing of the action.

2. Any facility or program which has received a notice of noncompliance as provided by sections 630.745 to 630.750 is liable to the state for civil penalties of up to **[**one hundred**]** **ten thousand** dollars for each day that noncompliance continues after the notice of noncompliance is received. The attorney general shall, upon the request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of civil penalty to be assessed **within the limits set out in this section. Appeals may be taken from the judgment of the circuit court as in other civil cases.**

3. The imposition of any remedy provided for in sections 630.705 to 630.760 shall not bar the imposition of any other remedy.

4. Penalties collected for violations of this section shall be transferred to the state schools moneys established under section 166.051, RSMo. Such penalties shall not be considered a charitable contribution for tax purposes.

5. To recover any civil penalty, the moving party shall prove by a preponderance of the evidence that the violation occurred.

630.925. MENTAL HEALTH FATALITY REVIEW PANEL ESTABLISHED, MEMBERS, DUTIES. — 1. The director of the department shall establish a mental health fatality review panel to review deaths of all adults in the care and custody of the department. The panel shall be formed and shall operate according to the rules, guidelines, and protocols provided by the department of mental health.

2. The panel shall include, but shall not be limited to, the following:

(1) A prosecuting or circuit attorney;

(2) A coroner or medical examiner;

(3) Law enforcement personnel;

(4) A representative from the departments of mental health, social services, health and senior services, and public safety;

(5) A representative of the Missouri Protection and Advocacy.

3. The director of the department of mental health shall organize the panel and shall call the first organizational meeting of the panel. The panel shall elect a chairman who shall convene the panel to meet at least quarterly to review all suspicious deaths of patients, residents, or clients who are in the care and custody of the department of mental health, which meet guidelines for review as set forth by the department of mental health. In addition, the panel may review at its own discretion any death reported to it by the medical examiner, coroner, or a parent or legal representative of a client in the care and custody of the department, even if it does not meet criteria for review as set forth by the department. The panel shall issue a final report, which shall be a public record, of each investigation to the department of mental health. The final report shall include a completed summary report form. The form shall be developed by the director of the department of mental health. The department of mental health shall analyze the mental health fatality review panel reports and periodically prepare epidemiological reports which describe the incidence, causes, location, and other factors. The department of mental health shall make recommendations and develop programs to prevent patient, resident, or client injuries and deaths.

4. For purposes of this section, "suspicious death" shall include but not be limited to when the following occurs:

(1) A crime is involved;

(2) An accident has occurred;

(3) A medical prognosis has not been ascertained; or

(4) A person has died unexpectedly.

5. The mental health fatality review panel shall enjoy such official immunity as exists at common law.

630.927. RULEMAKING AUTHORITY. — 1. The director of the department of mental health shall promulgate rules, guidelines, and protocols for the mental health fatality review panel established pursuant to section 630.925.

2. The director shall promulgate guidelines and protocols for coroner and medical examiners to use to help them to identify suspicious deaths of patients, residents, or clients in the care and custody of the department of mental health.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

4. All meetings conducted, all reports and records made and maintained pursuant to sections 630.925 and 630.927 by the department of mental health, or other appropriate persons, officials, or state mental health fatality review panel shall be confidential and shall not be open to the general public except for the annual report pursuant to section 630.925.

630.950. IMMUNITY FROM LIABILITY, WHEN. — Any department employee or employee of a residential facility, day program, or specialized service operated, funded, or licensed by the department who reports on or discusses employee job performance for the purposes of making employment decisions that affect the safety of consumers and who does so in good faith and without malice shall not be subject to an action for civil damages as a result thereof, and no cause of action shall arise against him or her as a result of his or her conduct pursuant to this section. The attorney general shall defend such persons in any such action or proceeding.

630.975. RULEMAKING AUTHORITY — DISCLOSURE OF RECORDS, WHEN. — 1. The director of the department of mental health shall promulgate rules, guidelines and protocols for hospitals and physicians to use to help them to identify suspicious deaths of patients, residents, or clients in the care and custody of the department of mental health.

2. Any hospital, physician, medical professional, mental health professional, or department of mental health facility shall disclose upon request all records, medical or social, of any client in the care and custody of the department of mental health who has died to the mental health fatality review panel established under section 630.925 to investigate the person's death. Any legally recognized privileged communication, except that between attorney and client, shall not apply to situations involving the death of a client in the care and custody of the department of mental health.

Approved July 13, 2007

SB 4 [SCS SB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the FRA, Pharmacy Tax, Nursing Facility Reimbursement Allowance, and Medicaid Managed Care Reimbursement Allowance sunsets

AN ACT to repeal sections 198.439, 208.437, 208.480, and 338.550, RSMo, and to enact in lieu thereof four new sections relating to the health care provider tax, with an emergency clause and an expiration date for certain sections.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 198.439, 208.437, 208.480, and 338.550, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 198.439, 208.437, 208.480, and 338.550, to read as follows:

198.439. EXPIRATION DATE. — Sections 198.401 to 198.436 shall expire on September 30, **[**2007**]** **2011**.

208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE — EXPIRATION DATE. — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance. The director of the department of insurance may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on June 30, **[**2007**]** **2009**.

208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE. — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, **[**2007**]** **2009**.

338.550. EXPIRATION DATE OF TAX, WHEN. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) June 30, **[**2007**]** **2009**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on June 30, **[**2007**]** **2009**.

SECTION B. EMERGENCY CLAUSE — Because of the need to preserve state revenue, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 31, 2007

SB 16 [SCS SB 16]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that each child enrolled in kindergarten or first grade is to receive a comprehensive vision examination

AN ACT to repeal section 192.935, RSMo, and to enact in lieu thereof three new sections relating to vision examinations for school children.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 192.935, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 167.194, 167.195, and 192.935, to read as follows:

167.194. VISION EXAMINATION REQUIRED, WHEN — RULEMAKING AUTHORITY — COMPONENTS OF THE EXAMINATION — SUNSET PROVISION. — 1. Beginning July 1, 2008, every child enrolling in kindergarten or first grade in a public elementary school in this state shall receive one comprehensive vision examination performed by a state licensed optometrist or physician. Evidence of the examination shall be submitted to the school no later than January first of the first year in which the student is enrolled at the school, provided that the evidence submitted in no way violates any provisions of Public Law 104-191, 42 U.S.C. 201 et seq, Health Insurance Portability and Accountability Act of 1996.

2. The state board of education, in conjunction with the department of health and senior services, shall promulgate rules establishing the criteria for meeting the requirements of subsection 1 of this section, which may include, but are not limited to, forms or other proof of such examination, or other rules as are necessary for the enforcement of this section. The form or other proof of such examination shall include but not be limited to identifying the result of the examinations performed under subsection 4 of this section, the cost for the examination, the examiner's qualifications, and method of payment through either:

(1) Insurance;

(2) The state Medicaid program;

(3) Complimentary; or

(4) Other form of payment.

3. The department of elementary and secondary education, in conjunction with the department of health and senior services, shall compile and maintain a list of sources to which children who may need vision examinations or children who have been found to need further examination or vision correction may be referred for treatment on a free or reduced cost basis. The sources may include individuals, and federal, state, local government, and private programs. The department of elementary and secondary education shall ensure that the superintendent of schools, the principal of each elementary school, the school nurse or other person responsible for school health services, and the parent organization for each district elementary school receives an updated copy of the

list each year prior to school opening. Professional and service organizations concerned with vision health may assist in gathering and disseminating the information, at the direction of the department of elementary and secondary education.

4. For purposes of this section, the following comprehensive vision examinations shall include but not be limited to:

(1) Complete case history;

(2) Visual acuity at distance (aided and unaided);

(3) External examination and internal examination (ophthalmoscopic examination);

(4) Subjective refraction to best visual acuity.

5. Findings from the evidence of examination shall be provided to the department of health and senior service and kept by the optometrist or physician for a period of seven years.

6. In the event that a parent or legal guardian of a child subject to this section shall submit to the appropriate school administrator a written request that the child be excused from taking a vision examination as provided in this section, that child shall be so excused.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on June 30, 2012, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset eight years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

167.195. EYE SCREENING REQUIRED, WHEN — RECORDING OF RESULTS — CHILDREN'S VISION COMMISSION ESTABLISHED, MEMBERS, DUTIES. — 1. Beginning July 1, 2008, and continuing through the 2010-2011 school year unless extended by act of the general assembly, all public school districts shall conduct an eye screening for each student once before the completion of first grade and again before the completion of third grade. The eye screening method utilized shall be one approved by the children's vision commission and shall be performed by an appropriately trained school nurse or other trained and qualified employee of the school district.

2. Results of each eye screening shall be recorded on a form provided by the department of health and senior services, developed and approved by the children's vision commission established under this section.

(1) The screening results, with all individual identifying information removed, shall be sent to the state department of health and senior services via electronic form and shall compile the data contained in the reports for review and analysis by the commission or other interested parties;

(2) When a student fails the eye screening, the school district shall send a notice developed by the commission to the parent or guardian notifying them of the results of the eye screening and propose that the student receive a complete eye examination from an optometrist or physician. Such notice shall have a place for the parent to acknowledge receipt along with an indication as to whether the student has received a complete eye examination and the results of the examination. Evidence of an examination provided by an optometrist or physician within the year preceding the school eye screening shall be sufficient for meeting the requirements of this section. The notice completed by the parent or guardian is to be returned to the school and shall be retained in the student's file and a copy shall be sent to the department of health and senior services;

(3) Notwithstanding any law to the contrary, nothing in this section shall violate any provisions of Public Law 104-191, 42 U.S.C. et seq, Health Insurance Portability and Accountability Act of 1996.

3. The "Children's Vision Commission" is hereby established which shall cease to exist on June 30, 2012, unless renewed by act of the general assembly.

(1) The commission shall be composed of seven members appointed by the governor: two ophthalmologists to be determined from a list of recommended ophthalmologists by the Missouri society of eye physicians and surgeons; two optometrists to be determined from a list of recommended optometrists by the Missouri optometric association; one school nurse; one representative from the department of elementary and secondary education; and one representative from the Missouri state school boards association. Each ophthalmologist and optometrist shall serve a one-year term as chair of the commission. Members of the commission shall serve without compensation, but may be reimbursed for reasonable and necessary expenses associated with carrying out their duties.

(2) Duties of the commission shall be as follows:

(a) Analyze and adopt one or more standardized eye screening and eye examination tests to carry out the requirements of this section to be used in all schools beginning with the 2008-2009 school year which, in the commission's estimation, have a reasonable expectation of identifying vision problems in children;

(b) Develop, in conjunction with the department of health and senior services, a standardized reporting form which shall be used by all school districts in carrying out the requirements of this section;

(c) Design and coordinate appropriate training programs for school district staff who conduct the screening exams. Such training programs may utilize the volunteer services of nonprofit professional organizations which, in the opinion of the commission, are qualified to carry out those responsibilities associated with providing the training required;

(d) Conduct a pilot project to track the results of the eye screenings versus eye examinations conducted based on the reports submitted by school districts to the department of health and senior services;

(e) Develop, in conjunction with the Missouri Optometric Association (MOA) and the Missouri Society of Eye Physicians and Surgeons (MOSEPS), guidelines outlining the benefits and ongoing eye care for children and summarizing the signs and symptoms of vision disorders in order for the guidelines to be made available on the MOA and MOSEPS website. The commission shall also consult with MOA and MOSEPS in the organizations' education and promotion of the guidelines;

(f) By December 31, 2011, the commission shall submit a report to the general assembly detailing the results and findings of the study, including but not limited to the total number of eye screenings and eye examinations, the number of students who received a follow-up examination from an optometrist, opthalmologist, physician, or doctor of osteopathy and the results of those examinations to determine the effectiveness of eye examinations versus eye screenings.

4. The department of health and senior services shall make a reasonable accommodation for public review and inspection of the data collected as part of the eye screening pilot project provided that no information is revealed that could identify any individual student who was screened or examined.

5. In the event that a parent or legal guardian of a child objects to the child's participation in the eye screening program, the child shall be excused upon receipt by the appropriate school administrator of a written request.

6. The department of health and senior services shall provide staff support to the commission.

192.935. BLINDNESS EDUCATION, SCREENING AND TREATMENT PROGRAM FUND — USES OF FUND — RULEMAKING. — 1. There is hereby created in the state treasury the "Blindness Education, Screening and Treatment Program Fund". The fund shall consist of moneys donated pursuant to subsection 7 of section 301.020, RSMo, and subsection 3 of section

302.171, RSMo. Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue fund or any other fund, the provisions of section 33.080, RSMo, to the contrary notwithstanding.

2. Subject to the availability of funds in the blindness education, screening and treatment program fund, the department shall develop a blindness education, screening and treatment program to provide blindness prevention education and to provide screening and treatment for persons who do not have adequate coverage for such services under a health benefit plan.

3. The program shall provide for:

(1) Public education about blindness and other eye conditions;

(2) Screenings and eye examinations to identify conditions that may cause blindness; **[**and**]**

(3) Treatment procedures necessary to prevent blindness**; and**

(4) Any additional costs for vision examinations under section 167.195, RSMo, that are not covered by existing public health insurance. Subject to appropriations, moneys from the fund shall be used to pay for those additional costs, provided that the costs do not exceed ninety-nine thousand dollars per year. Payment from the fund for vision examinations under section 167.195, RSMo, shall not exceed the allowable state Medicaid reimbursement amount for vision examinations.

4. The department may contract for program development with any department-approved nonprofit organization dealing with regional and community blindness education, eye donor and vision treatment services.

5. The department may adopt rules to prescribe eligibility requirements for the program.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved June 21, 2007

SB 22 [CCS HCS SS SCS SB 22]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to political subdivisions

AN ACT to repeal sections 41.655, 50.565, 50.660, 50.1250, 52.290, 52.312, 52.315, 52.317, 58.500, 58.510, 64.940, 66.010, 67.110, 67.320, 67.457, 67.463, 67.797, 67.1003, 67.1360, 67.1401, 67.1451, 67.1545, 67.1561, 67.2500, 67.2510, 67.2555, 70.220, 70.515, 70.545, 71.011, 71.012, 72.080, 77.020, 78.610, 79.050, 79.495, 87.006, 89.010, 89.400, 94.660, 94.875, 99.847, 100.050, 100.059, 105.971, 108.170, 110.130, 110.140, 110.150, 137.055, 137.115, 139.055, 141.150, 141.640, 144.030, 144.062, 144.757, 144.759, 162.431, 163.011, 182.015, 190.052, 190.305, 206.090, 221.040, 226.527, 228.110, 228.190, 235.210, 238.202, 238.207, 238.208, 238.220, 238.225, 238.230, 238.275, 246.005, 247.060, 260.830, 260.831, 302.010, 320.106, 320.146, 320.200, 320.271, 320.310, 321.130, 392.410, 393.705, 393.710, 393.715, 393.720, 393.740, 393.825, 393.847, 393.900, 393.933, 409.107, 432.070, 451.040, 473.743, 479.010, 479.011, 650.340, RSMo, section 67.1000, as enacted by senate committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, and section 67.1000, as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second

general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and section 94.875 as Truly Agreed To and Finally Passed by the first regular session of the ninety-fourth general assembly in Senate Substitute for House Bill No. 205, and to enact in lieu thereof one hundred sixty-four new sections relating to political subdivisions, with penalty provisions.

SECTION

67.2510. Alternative procedure for establishment of a district.
67.2555. Competitive bids required, when (Jackson County).
70.220. Political subdivisions may cooperate with each other, with other states, the United States or private persons — tax distribution agreement, authorized for certain county and city (Greene County and city of Springfield).
70.226. Local public health agencies considered political subdivision, when, what purpose.
70.515. Regional investment district compact with Kansas and Missouri.
70.545. Counties and commission may operate under compact if not authorized by Kansas, when.
71.011. Transfer of certain land between municipalities, when — procedure — exception — concurrent detachment and annexation, procedure.
71.012. Annexation procedure, hearing, exceptions (Perry County, Randolph County) — contiguous and compact defined — common interest community, cooperative and planned community, defined — objection, procedure.
72.080. Cities, villages and towns may be incorporated in their respective classes — exception, certain cities must comply with boundary change law — exception, Cass County — owners of majority of certain class of property may object to incorporation, cause of action — definition — contents of petition.
77.020. City limits may be altered, how.
78.610. City manager — duties.
79.050. Elective officers, terms — chief of police or marshal, qualification — same person may be elected collector and marshal — board of aldermen, four-year term permitted, submission to voters required.
79.495. Disincorporation without election allowed, when — diminishing city limits (certain fourth class cities).
87.006. Firemen, certain diseases presumed incurred in line of duty — persons covered — disability from cancer, presumption suffered in line of duties, when.
89.010. Applicability of law — conflict with zoning provisions of another political subdivision, which to prevail.
89.400. Commission to make recommendations to council on plats, when — conflict with zoning provisions of another political subdivision, which to prevail.
92.500. Sales tax for the operation of public safety departments — ballot submission (St. Louis).
94.660. Transportation sales tax, ballot — effective, when — approval required in city and county — collection, fund created — use of funds — abolition of tax, procedure — reduction of rate.
94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.
94.950. Historical locations and museums, sales tax authorized for promotion of tourism — ballot language — revenue, use of — repeal of tax, ballot language (City of Joplin).
99.847. No new TIF projects authorized for flood plain areas in St. Charles County, applicability of restriction.
100.050. Approval of plan by governing body of municipality — information required — additional information required, when — payments in lieu of taxes, applied how.
100.059. Notice of proposed project for industrial development, when, contents — limitation on indebtedness, inclusions — applicability, limitation.
108.170. Bonds, notes and other evidences of indebtedness, forms — rate — sales price — exceptions — agreements for purchase of commodities.
110.130. Depositaries of county funds — how selected.
110.140. Procedure for bidders — disclosure of bids a misdemeanor.
110.150. Public opening of bids — computation and payment of interest — rejected bids.
137.055. County commission to fix rate of tax, when — public hearing to be held, when, notice, effect.
137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
139.055. Tax paid by credit card or electronic transfer — fee.
141.150. Fees allowed (first class counties).
141.640. Collector's commission (first class charter counties).
144.030. Exemptions from state and local sales and use taxes.
144.062. Construction materials, exemption allowed, when — exemption certificate, form, content, purpose — effect — entity having unauthorized exemption certificate, effect.
144.757. Local use tax to fund community comeback program — rate of tax — St. Louis County — ballot of submission — notice to director of revenue — repeal or reduction of local sales tax, effect on local use tax.
144.759. Collection of additional local use tax for economic development — deposit in local use tax trust fund, not part of state revenue — distribution to counties and municipalities — refunds — notification to director of revenue on abolishment of tax.
162.431. Boundary change — procedure — arbitration — compensation of arbitrators — resubmission of changes restricted.
163.011. Definitions — method of calculating state aid.
163.016. Designation of school district number (Monroe City).
163.038. Dsitricts with a county municipal court, payments to be made.
182.015. County commission may establish library district without vote, when — tax levy, submitted how — dissolution of library district — change of boundaries, procedure.
190.052. Board member must live in his district — vacancies, how filled.

190.053. Educational training required for board of directors.
190.305. Emergency telephone service may be provided — tax levy authorized — governing body of Christian and Scott counties may contract for services — time limitation on tax — rate — collection.
204.600. Reorganization permitted, when.
204.602. Proceedings for reorganization, requirements.
204.604. Petition requirements.
204.606. Bonded indebtedness and security interests of creditors, effect of reorganization.
204.608. District a body corporate and politic, when — seal to be adopted — judicial notice of existence, when.
204.610. Trustees, appointment, qualifications, compensation, terms.
204.612. Levy and collection of taxes permitted, when.
204.614. Bond requirements — deposit of district moneys.
204.616. Powers of the board — industrial user defined.
204.618. Surveys and general plan for construction, duty of the board — agreements authorized — contracts permitted — additional powers.
204.620. Acquisition of real and personal property — use of public grounds, when.
204.622. Treatment plants, contracts for — agreements for professional services.
204.624. Costs, how met.
204.626. Issuance of revenue bonds, procedure.
204.628. Fees or charges levied, when due.
204.630. Revenue bonds, duties of district.
204.632. Revenue bonds, net revenues to be pledged.
204.634. Resolution authorizing revenue bonds — accounts.
204.636. Issuance of refunding bonds, when.
204.638. Grants or funds from state or federal government, trustees to accept.
204.640. Courts and officers of political subdivisions to cooperate with district.
204.650. Citation of law — definitions.
204.652. Improvements may be made — issuance of revenue bonds — asssessments.
204.654. Establishment of area, procedure.
204.656. Costs apportioned against property.
204.658. Assessments required, roll to be prepared.
204.660. Hearing, procedure — notice to property owners — special assessments.
204.662. Court action, limitation.
204.664. Supplemental or additional assessments permitted, when — reassessment or new assessment required, when.
204.666. Assessment to constitute a lien, when.
204.668. Temporary notes authorized, when.
204.670. Funds required.
204.672. Cooperative agreements authorized, when.
204.674. Inapplicability.
205.563. Property tax for rural health clinic — ballot language — revenue, use of moneys (City of Centerview)
206.090. Election districts — election of directors — terms, qualifications, vacancies, declaration of candidacy — no election, when — abolishing election districts, procedure — election of directors at large.
221.040. Sheriff and jailer to receive prisoners — penalty for refusal — medical exams required.
226.527. Signs not to be visible from main highway — removal, compensation — no removal, when — local law applicable, when, extent.
228.110. Roads may be vacated, how.
228.190. Roads legally established, when — deemed abandoned, when — roads deemed public county roads, when.
235.210. Boundaries of district may be altered to include new territory — annexation, procedure.
238.202. Definitions.
238.207. Creation of district, procedures — district to be contiguous, size requirements — petition, contents — alternative method.
238.208. Annexation of property adjacent to a transportation district, procedure — removal of property, procedure.
238.220. Directors, election of, how, qualifications — advisors, appointed when, duties.
238.225. Projects, submission of plans to commission, approval — submission to local transportation authority, when.
238.230. Special assessments, vote required — election, ballot form — petition form — effect of failure of question.
238.275. Projects, transfer to commission or authority, when — abolishment of district, procedures, duties.
246.005. Extension of time of corporate existence — reinstatement period for certain districts.
247.060. Board of directors — powers — qualifications — appointment — terms — vacancies, how filled — elections held, when, procedure.
260.830. Landfill fee authorized, counties of third and fourth classification — approval, ballot, limitation.
260.831. Collection of fee by operator, payment required — separate surcharge, transmittal of funds.
302.010. Definitions.
320.097. Residency requirements prohibited — forfeiture of a portion of salary as offset, ballot language.

320.106. Definitions.
320.146. Display and storage of fireworks, restrictions on.
320.200. Definitions.
320.271. Information to be filed with fire marshal, by certain fire protection organizations — when — identification numbers.
320.310. Boundaries, filing with county — sole providers, when.
321.130. Directors, qualifications — candidate filing fee, oath.
321.162. Educational training required for board of directors.
321.688. Consolidation of districts — ballot language — effect of.
392.410. Certificate of public convenience and necessity required, exception — certificate of interexchange service authority, required when — duration of certificates — temporary certificates, issued when — political subdivisions restricted from providing certain telecommunications services or facilities, expiration date.
393.705. Definitions.
393.710. Municipalities, public water supply districts and sewer districts may form commission — purposes — contents of contract — board of directors.
393.715. Powers of commission — purchase of private water utility serving outside municipal limits, effect — successorship, continued and new service authorized, when.
393.720. Commissions to be bodies public and corporate.
393.740. Certain taxes applicable.
393.825. Nonprofit sewer companies, who may organize — articles of incorporation, contents, submission to secretary of state.
393.847. Department of natural resources, jurisdiction, supervision, powers and duties — public service commission jurisdiction, limitations.
393.900. Nonprofit water companies may be organized — articles of incorporation.
393.933. Compliance with department of natural resources and other laws — public service commission not to have jurisdiction.
409.107. Investment firms, legal firms, other persons shall not be involved with issuance of bonds, when.
432.070. Contracts, execution of by counties, towns — form of contract.
451.040. Marriage license required, waiting period — application, contents — license void when — common law of marriages void — lack of authority to perform marriage, effect.
473.743. Duty of public administrator to take charge of estates, when.
479.010. Violation of municipal ordinances, jurisdiction.
479.011. Administrative adjudication of certain code violations in St. Louis City and Kansas City — authorization, rules requirements — tribunal designated by ordinance, procedures — evidence reviewed — imprisonment and fines limited — judicial review, lien imposed, when.
644.597. Board may borrow additional $10,000,000 for purposes of water pollution, improvement of drinking water, and storm water control.
644.598. Board may borrow additional $10,000,000 for purposes of rural water and sewer grants and loans.
644.599. Board may borrow additional $20,000,000 for purposes of storm water control.
650.340. 911 training and standards act.
1. Rogersville and Springfield to abide by agreement for annexation.
2. Certain trucks not to drive in far left lane of certain interstate highways (St. Charles and Jefferson counties).
3. Conveyance of property in Jackson County to the city of Kansas City.
4. Posting of increase in sales tax, when.
5. Sales tax for fire protection district — ballot language — fund created, use of moneys (Douglas County).
58.510. Money, when and how paid to representatives of deceased.
105.971. Attempt to influence local government decisions, disclosure required — form — public inspection — exemption — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 41.655, 50.565, 50.660, 50.1250, 52.290, 52.312, 52.315, 52.317, 58.500, 58.510, 64.940, 66.010, 67.110, 67.320, 67.457, 67.463, 67.797, 67.1003, 67.1360, 67.1401, 67.1451, 67.1545, 67.1561, 67.2500, 67.2510, 67.2555, 70.220, 70.515, 70.545, 71.011, 71.012, 72.080, 77.020, 78.610, 79.050, 79.495, 87.006, 89.010, 89.400, 94.660, 94.875, 99.847, 100.050, 100.059, 105.971, 108.170, 110.130, 110.140, 110.150, 137.055, 137.115, 139.055, 141.150, 141.640, 144.030, 144.062, 144.757, 144.759, 162.431, 163.011, 182.015, 190.052, 190.305, 206.090, 221.040, 226.527, 228.110, 228.190, 235.210, 238.202, 238.207, 238.208, 238.220, 238.225, 238.230, 238.275, 246.005, 247.060, 260.830, 260.831, 302.010, 320.106, 320.146, 320.200, 320.271, 320.310, 321.130, 392.410, 393.705, 393.710, 393.715, 393.720, 393.740, 393.825, 393.847, 393.900, 393.933, 409.107, 432.070, 451.040, 473.743, 479.010, 479.011, 650.340, RSMo, section 67.1000, as enacted by senate

committee substitute for senate bill no. 820, eighty-ninth general assembly, second regular session, and section 67.1000, as enacted by house bill no. 1587, eighty-ninth general assembly, second regular session, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and section 94.875 as Truly Agreed To and Finally Passed by the first regular session of the ninety-fourth general assembly in Senate Substitute for House Bill No. 205, are repealed and one hundred sixty-four new sections enacted in lieu thereof, to be known as sections 41.655, 50.032, 50.565, 50.660, 50.1250, 52.290, 52.312, 52.315, 52.317, 58.500, 64.940, 66.010, 67.048, 67.110, 67.304, 67.320, 67.321, 67.457, 67.463, 67.797, 67.997, 67.1000, 67.1003, 67.1181, 67.1360, 67.1401, 67.1451, 67.1485, 67.1545, 67.1561, 67.2040, 67.2500, 67.2505, 67.2510, 67.2555, 70.220, 70.226, 70.515, 70.545, 71.011, 71.012, 72.080, 77.020, 78.610, 79.050, 79.495, 87.006, 89.010, 89.400, 92.500, 94.660, 94.875, 94.950, 99.847, 100.050, 100.059, 108.170, 110.130, 110.140, 110.150, 137.055, 137.115, 139.055, 141.150, 141.640, 144.030, 144.062, 144.757, 144.759, 162.431, 163.011, 163.016, 163.038, 182.015, 190.052, 190.053, 190.305, 204.600, 204.602, 204.604, 204.606, 204.608, 204.610, 204.612, 204.614, 204.616, 204.618, 204.620, 204.622, 204.624, 204.626, 204.628, 204.630, 204.632, 204.634, 204.636, 204.638, 204.640, 204.650, 204.652, 204.654, 204.656, 204.658, 204.660, 204.662, 204.664, 204.666, 204.668, 204.670, 204.672, 204.674, 205.563, 206.090, 221.040, 226.527, 228.110, 228.190, 235.210, 238.202, 238.207, 238.208, 238.220, 238.225, 238.230, 238.275, 246.005, 247.060, 260.830, 260.831, 302.010, 320.097, 320.106, 320.146, 320.200, 320.271, 320.310, 321.130, 321.162, 321.688, 392.410, 393.705, 393.710, 393.715, 393.720, 393.740, 393.825, 393.847, 393.900, 393.933, 409.107, 432.070, 451.040, 473.743, 479.010, 479.011, 644.597, 644.598, 644.599, 650.340, 1, 2, 3, 4, and 5, to read as follows:

41.655. PLANNING AND ZONING FOR UNINCORPORATED AREAS NEAR MILITARY BASES — AIRPORT HAZARD AREA ZONING REQUIRED (JOHNSON COUNTY). — **1.** The governing body or county planning commission, if any, of any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants shall provide for the planning, zoning, subdivision and building within all or any portion of the unincorporated area extending three thousand feet outward from the boundaries of any military base located in such county and the area within the perimeter of accident potential zones one and two **[**if the county has a zoning commission and a board of adjustment established under sections 64.510 to 64.727, RSMo**]**. As used in this section, the term "accident potential zones one and two" means any land area **[**that was**]** identified in the **[**April, 1976**]** **current** Air Installation Compatible Use Zone Report at the north and south ends of the clear zone of a military installation located in any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants and which is in significant danger of aircraft accidents by being beneath that airspace where the potential for aircraft accidents is most likely to occur.

2. The governing body of any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants may adopt, administer, and enforce airport hazard area zoning regulations that are substantially similar to the airport hazard area zoning regulations in sections 67.1200 to 67.1222, RSMo, subject to any exceptions listed in this section. Such exceptions are as follows:

(1) All definitions in section 67.1200, RSMo, shall apply, except that any reference to a political subdivision in sections 67.1200 to 67.1222, RSMo, shall be construed to include

any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants;

(2) Sections 67.1207 and 67.1212, RSMo, shall not apply;

(3) The county shall employ any existing airport planning commission or airport zoning commission as created in section 67.1210, RSMo, or shall form such commission, with the following exceptions:

(a) The commission shall consist of five members as follows:

a. Three residents of the county, with at least two of such county residents residing in the township containing the military base;

b. The presiding county commissioner or such commissioner's designee; and

c. The county road commissioner;

(b) The commission may appoint an ex officio military liaison from the armed forces of the United States who is stationed at the military base;

(c) The terms of office of each member under this section shall be identical to the terms of office in section 67.1210, RSMo, with the member chosen to serve as chair serving for an initial term of two years. The commission shall elect its chairman;

(4) Sections 67.1214 to 67.1218, and section 67.1222, RSMo, shall apply in their entirety, except that any reference to a municipality in such sections shall be construed to include any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants;

(5) Section 67.1220 shall apply in its entirety, except that the board of variance shall consist of three members as follows:

(a) Three residents of the county, with at least two of such county residents residing in the township containing the military base;

(b) The board shall elect its chairman.

50.032. MEDIATION OF DISPUTES NECESSARY FOR RECEIPT OF STATE FUNDS. — No county shall receive any state funds unless the county has determined, by order or ordinance, to agree to engage in mediation if a dispute concerning a financial expenditure arises between such county and another county as to which county is fully responsible or if both counties are partially responsible for paying such expenses. Mediation under this section shall be nonbinding and independently administered. The counties shall mutually agree upon a qualified independent and neutral county commissioner of a county not involved in the dispute to serve as mediator, and shall share the costs of the mediator. If the counties cannot mutually agree upon a county commissioner to serve as mediator, the matter shall be resolved by a three-person arbitration panel consisting of a county commissioner selected by each county, and one person selected by such selected county commissioners. In the event that a three-person arbitration panel is necessary, each county shall jointly and equally bear with the other county the expense of the arbitration. The mediation or arbitration shall take place within thirty days of the selection of the mediator or arbitration panel. Any decision issued by an arbitration panel may be appealed to the circuit court to determine the portion of expenses each county shall be responsible for paying.

50.565. COUNTY LAW ENFORCEMENT RESTITUTION FUND MAY BE ESTABLISHED, PROCEEDS DESIGNATED FOR DEPOSIT IN, USE OF MONEYS — AUDIT OF FUND. — 1. A county commission may establish by ordinance or order a fund whose proceeds may be expended only for the purposes provided for in subsection 3 of this section. The fund shall be designated as a county law enforcement restitution fund and shall be under the supervision of a board of trustees consisting of two citizens of the county appointed by the presiding commissioner of the county, two citizens of the county appointed by the sheriff of the county, and one citizen of the county appointed by the county coroner or medical examiner. The citizens so appointed shall not be

current or former elected officials, current or former employees of the sheriff's department, the office of the prosecuting attorney for the county, **office of the county commissioners,** or the county treasurer's office. If a county does not have a coroner or medical examiner, the county treasurer shall appoint one citizen to the board of trustees.

2. Money from the county law enforcement restitution fund shall only be expended upon the approval of a majority of the members of the county law enforcement restitution fund's board of trustees and only for the purposes provided for by subsection 3 of this section.

3. Money from the county law enforcement restitution fund shall only be expended for the following purposes:

(1) Narcotics investigation, prevention, and intervention;

(2) Purchase of law enforcement-related equipment and supplies for the sheriff's office;

(3) Matching funds for federal or state law enforcement grants;

(4) Funding for the reporting of all state and federal crime statistics or information; and

(5) Any **county** law enforcement-related expense, including those of the prosecuting attorney, approved by the board of trustees for the county law enforcement restitution fund that is reasonably related to investigation, charging, preparation, trial, and disposition of criminal cases before the courts of the state of Missouri.

4. The county commission may not reduce any law enforcement agency's budget as a result of funds the law enforcement agency receives from the county law enforcement restitution fund. The restitution fund is to be used only as a supplement to the law enforcement agency's funding received from other county, state, or federal funds.

5. County law enforcement restitution funds shall be audited as are all other county funds.

6. No court may order the assessment and payment authorized by this section if the plea of guilty or the finding of guilt is to the charge of speeding, careless and imprudent driving, any charge of violating a traffic control signal or sign, or any charge which is a class C misdemeanor or an infraction. No assessment and payment ordered pursuant to this section may exceed three hundred dollars for any charged offense.

50.660. RULES GOVERNING CONTRACTS. — 1. All contracts shall be executed in the name of the county, or in the name of a township in a county with a township form of government, by the head of the department or officer concerned, except contracts for the purchase of supplies, materials, equipment or services other than personal made by the officer in charge of purchasing in any county or township having the officer. No contract or order imposing any financial obligation on the county or township is binding on the county or township unless it is in writing and unless there is a balance otherwise unencumbered to the credit of the appropriation to which it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet the obligation incurred and unless the contract or order bears the certification of the accounting officer so stating; except that in case of any contract for public works or buildings to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the accounting officer to certify that the bonds or taxes have been authorized by vote of the people and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury. All contracts and purchases shall be let to the lowest and best bidder after due opportunity for competition, including advertising the proposed letting in a newspaper in the county or township with a circulation of at least five hundred copies per issue, if there is one, except that the advertising is not required in case of contracts or purchases involving an expenditure of less than **[**four thousand five hundred**] six thousand** dollars. It is not necessary to obtain bids on any purchase in the amount of four thousand five hundred dollars or less made from any one person, firm or corporation during any period of ninety days. All bids for any contract or purchase may be rejected and new bids advertised for. Contracts which provide that the person contracting with the county or township shall, during the term of the

contract, furnish to the county or township at the price therein specified the supplies, materials, equipment or services other than personal therein described, in the quantities required, and from time to time as ordered by the officer in charge of purchasing during the term of the contract, need not bear the certification of the accounting officer, as herein provided; but all orders for supplies, materials, equipment or services other than personal shall bear the certification. In case of such contract, no financial obligation accrues against the county or township until the supplies, materials, equipment or services other than personal are so ordered and the certificate furnished.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, advertising shall not be required in any county in the case of contracts or purchases involving an expenditure of less than six thousand dollars.

50.1250. FORFEITURE OF CONTRIBUTIONS, WHEN — REVERSION OF FORFEITURES — DISTRIBUTION OF CONTRIBUTION ACCOUNT, WHEN — DEATH OF A MEMBER, EFFECT OF. — 1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to board matching contributions or county matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve a matching contribution, then forfeitures shall revert to the county employees' retirement fund. The proceeds of such forfeiture with respect to county matching contributions shall be applied toward matching contributions made by the respective county in accordance with rules prescribed by the board.

2. A member shall be eligible to receive a distribution of the member's defined contribution account in such form selected by the member as permitted under and in accordance with the rules and regulations formulated and adopted by the board from time to time, and commencing as soon as administratively feasible following separation from service, unless the member elects to receive the account balance at a later time, but no later than his or her required beginning date. Notwithstanding the foregoing, if the value of a member's defined contribution account balance is **[**five**]** **one** thousand dollars or less at the time of the member's separation from service, without respect to any board-matching contributions or employer-matching contribution which might be allocated following the member's separation from service, then his or her defined contribution account shall be distributed to the member in a single sum as soon as administratively feasible following his or her separation from service. The amount of the distribution shall be the amount determined as of the valuation date described in section 50.1240, if the member has at least five years of creditable service. If the member has less than five years of creditable service upon his or her separation from service, then the amount of the distribution shall equal the portion of the member's defined contribution account attributable to the member's seed contributions pursuant to section 50.1220, if any, determined as of the valuation date.

3. If the member dies before receiving the member's account balance, the member's designated beneficiary shall receive the member's defined contribution account balance, as determined as of the immediately preceding valuation date, in a single sum. The member's beneficiary shall be his or her spouse, if married, or his or her estate, if not married, unless the member designates an alternative beneficiary in accordance with procedures established by the board.

52.290. COLLECTION OF BACK TAXES, CERTAIN COUNTIES — FEE DEPOSITED IN COUNTY GENERAL REVENUE FUND AND RETIREMENT FUND — COLLECTION OF BACK TAXES, CERTAIN POLITICAL SUBDIVISIONS, FEE. — 1. In all counties except counties **[**of the first classification**]** having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this

section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.

2. In all counties **[**of the first classification**]** having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**]** **seven** hundred **[**fifty**]** thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. **[**Two-thirds of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and one-third of the fees collected pursuant to this section shall be paid into the tax maintenance fund of the county as required by section 52.312, RSMo.**]** **If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.**

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector may charge a surcharge for payment by credit card.

52.312. TAX MAINTENANCE FUND ESTABLISHED, USE OF MONEY. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties, including **[**a**]** **any** county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**]** **seven** hundred **[**fifty**]** thousand inhabitants**,** other than counties **[**of the first classification**]** having a charter form of government and any city not within a county, subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of collector.

52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. — 1. The two-sevenths collected to fund the tax maintenance fund pursuant to section 52.290 **and all moneys collected to fund the tax maintenance fund under subsection 2 of section 52.290** shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

52.317. MONEYS PROVIDED FOR BUDGET PURPOSES, REQUIREMENTS — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS — ONE-TIME EXPENDITURES, COMMON FUND PERMITTED. — 1. Any county subject to the provisions of section 52.312 shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the first classification **[**without a charter form of government**]** and any county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**]** **seven** hundred **[**fifty**]** thousand inhabitants shall be limited to an amount equal to one-half of the previous year's approved budget for the office of collector, and any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties other than counties of the first classification and any city not within a county, which collect more than four million dollars of all current taxes charged to be collected, shall be limited to an amount equal to the previous year's approved budget for the office of collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above-established limits shall be transferred to county general revenue by the following January fifteenth of each year.

2. For one-time expenditures directly attributable to any department, office, institution, commission, or county court, the county commission may budget such expenses in a common fund or account so that any such expenditures separately budgeted do not appear in any specific department, county office, institution, commission, or court budget.

58.500. DUTY OF PUBLIC ADMINISTRATOR ON RECEIPT OF MONEY OR PROPERTY. — Upon delivery of any money to the **[**treasurer**]** **public administrator**, he **or she** shall **[**place it to the credit of the city or county; if it be other property he shall, within thirty days, sell it at public auction, upon ten days' public notice, by publication in some newspaper printed in the city or county, if there be any, and if there be none, then by posting not less than six written or printed bills, giving notice of time and place of sale of such other property; and shall, in like manner, place the proceeds to the credit of the city or county**]** **follow the procedures as set out in section 473.743, RSMo**.

64.940. POWERS OF THE AUTHORITY. — 1. The authority shall have the following powers:

(1) To acquire by gift, bequest, purchase or lease from public or private sources and to plan, construct, operate and maintain, or to lease to others for construction, operation and maintenance a sports stadium, field house, indoor and outdoor recreational facilities, centers, playing fields, parking facilities and other suitable concessions, and all things incidental or necessary to a complex suitable for all types of sports and recreation, either professional or amateur, commercial or private, either upon, above or below the ground;

(2) To charge and collect fees and rents for use of the facilities owned or operated by it or leased from or to others;

(3) To adopt a common seal, to contract and to be contracted with, including, but without limitation, the authority to enter into contracts with counties and other political subdivisions under sections 70.210 to 70.320, RSMo, and to sue and to be sued;

(4) To receive for its lawful activities any contributions or moneys appropriated by municipalities, counties, state or other political subdivisions or agencies or by the federal government or any agency or officer thereof or from any other source;

(5) To disburse funds for its lawful activities and fix salaries and wages of its officers and employees;

(6) To borrow money for the acquisition, planning, construction, equipping, operation, maintenance, repair, extension and improvement of any facility, or any part or parts thereof, which it has the power to own or to operate, and to issue negotiable notes, bonds, or other instruments in writing as evidence of sums borrowed, as hereinafter provided in this section:

(a) Bonds or notes issued hereunder shall be issued pursuant to a resolution adopted by the commissioners of the authority which shall set out the estimated cost to the authority of the proposed facility or facilities, and shall further set out the amount of bonds or notes to be issued, their purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and of interest, place or places of payment and all other details in connection therewith. Any such bonds or notes may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution.

(b) Such bonds or notes shall bear interest at a rate not exceeding eight percent per annum and shall mature within a period not exceeding fifty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount thereof. Bonds or notes issued by an authority shall possess all of the qualities of negotiable instruments under the laws of this state.

(c) Such bonds or notes may be payable to bearer, may be registered or coupon bonds or notes and if payable to bearer, may contain such registration provisions as to either principal and interest, or principal only, as may be provided in the resolution authorizing the same which resolution may also provide for the exchange of registered and coupon bonds or notes. Such bonds or notes and any coupons attached thereto shall be signed in such manner and by such officers of the authority as may be provided for by the resolution authorizing the same. The authority may provide for the replacement of any bond or note which shall become mutilated, destroyed or lost.

(d) Bonds or notes issued by an authority shall be payable as to principal, interest and redemption premium, if any, out of the general funds of the authority, including rents, revenues, receipts and income derived and to be derived for the use of any facility or combination of facilities, or any part or parts thereof, acquired, constructed, improved or extended in whole or in part from the proceeds of such bonds or notes, including but not limited to stadium rentals, concessions, parking facilities and from funds derived from any other facilities or part or parts thereof, owned or operated by the authority, all or any part of which rents, revenues, receipts and income the authority is authorized to pledge for the payment of said principal, interest, and redemption premium, if any. Bonds or notes issued pursuant to this section shall not constitute an indebtedness of the authority within the meaning of any constitutional or statutory restriction, limitation or provision, and such bonds or notes shall not be payable out of any funds raised or to be raised by taxation. Bonds or notes issued pursuant to this section may be further secured by a mortgage or deed of trust upon the rents, revenues, receipts and income herein referred to or any part thereof or upon any leasehold interest or other property owned by the authority, or any part thereof, whether then owned or thereafter acquired. The proceeds of such bonds or notes shall be disbursed in such manner and under such restrictions as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in any such mortgage or deed of trust.

(e) It shall be the duty of the authority to fix and maintain rates and make and collect charges for the use and services of its interest in the facility or facilities or any part thereof operated by the authority which shall be sufficient to pay the cost of operation and maintenance thereof, to pay the principal of and interest on any such bonds or notes and to provide funds sufficient to meet all requirements of the resolution by which such bonds or notes have been issued.

(f) The resolution authorizing the issuance of any such bonds or notes may provide for the allocation of rents, revenues, receipts and income derived and to be derived by the authority from the use of any facility or part thereof into such separate accounts as shall be deemed to be advisable to assure the proper operation and maintenance of any facility or part thereof and the prompt payment of any bonds or notes issued to finance all or any part of the costs thereof. Such accounts may include reserve accounts necessary for the proper operation and maintenance of any such facility or any part thereof, and for the payment of any such bonds or notes. Such resolution may include such other covenants and agreements by the authority as in its judgment are advisable or necessary properly to secure the payment of such bonds or notes.

(g) The authority may issue negotiable refunding bonds or notes for the purpose of refunding, extending or unifying the whole or any part of such bonds or notes then outstanding, which bonds or notes shall not exceed the principal of the outstanding bonds or notes to be refunded and the accrued interest thereon to the date of such refunding, including any redemption premium. The authority may provide for the payment of interest on such refunding bonds or notes at a rate in excess of the bonds or notes to be refunded but such interest rate shall not exceed the maximum rate of interest hereinbefore provided.

(7) To condemn any and all rights or property, of any kind or character, necessary for the purposes of the authority, subject, however, to the provisions of sections 64.920 to 64.950 and in the manner provided in chapter 523, RSMo; provided, however, that no property now or hereafter vested in or held by the state or by any county, city, village, township or other political subdivisions shall be taken by the authority without the authority or consent of such political subdivisions;

(8) To perform all other necessary and incidental functions; and to exercise such additional powers as shall be conferred by the general assembly or by act of Congress.

2. The authority is authorized and directed to proceed to carry out its duties, functions and powers in accordance with sections 64.920 to 64.950 as rapidly as may be economically practicable and is vested with all necessary and appropriate powers not inconsistent with the constitution or the laws of the United States to effectuate the same, except the power to levy taxes or assessments.

3. Any expenditure made by the authority located in a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, that is over **[**five**]** **twenty-five** thousand dollars, including professional service contracts, must be competitively bid.

66.010. VIOLATION OF COUNTY ORDINANCE, WHERE PROSECUTED — COSTS AND PROCEDURES — JUDGES OF COUNTY MUNICIPAL COURTS, APPOINTMENT, QUALIFICATIONS — DIVISIONS — RECORDING OF PROCEEDINGS — CERTAIN VIOLATIONS OF STATE TRAFFIC LAWS MAY BE HEARD. — 1. Any **[**first class**]** county framing and adopting a charter for its own government under the provisions of section 18, article VI of the constitution of this state, may prosecute and punish violations of its county ordinances in the circuit court of such counties in the manner and to the extent herein provided or in a county municipal court **[**if creation of a county municipal court is authorized by such charter**]**. In addition, the county may prosecute and punish municipal ordinance violations in the county municipal court pursuant to a contract with any municipality within the county. Any county municipal court established pursuant to the provisions of this section shall have jurisdiction over violations of that county's ordinances and the ordinances of municipalities with which the county has a contract to prosecute and punish violations of municipal ordinances of the city. Costs and procedures in any such county municipal court shall be governed by the provisions of law relating to municipal ordinance violations in municipal divisions of circuit courts.

2. In any county which has elected to establish a county municipal court pursuant to this section, the judges for such court shall be appointed by the county executive of such county, subject to confirmation by the legislative body of such county in the same manner as

confirmation for other county appointed officers. The number of judges appointed, and qualifications for their appointment, shall be established by ordinance of the county.

3. The number of divisions of such county municipal court and its term shall be established by ordinance of the county.

4. **Except in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants,** the ordinance of the county shall provide for regular sessions of court in the evening hours after 6:00 p.m. and at locations outside the county seat. **In any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, the ordinance of the county may provide for regular sessions of court in the evening hours after 6:00 p.m. and at locations outside the county seat**.

5. Judges of the county municipal court shall be licensed to practice law in this state and shall be residents of the county in which they serve. Municipal court judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a municipal court judge and shall not be a judge or prosecutor for any other court.

6. In establishing the county municipal court, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

7. In a county municipal court established pursuant to this section, the county may provide by ordinance for court costs not to exceed the sum which may be provided by municipalities for municipal violations before municipal courts. The county municipal judge may assess costs against a defendant who pleads guilty or is found guilty except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. The costs authorized in this subsection are in addition to service costs, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court or judge costs or fees. Such costs shall be collected by the authorized clerk and deposited into the county treasury.

8. Provisions shall be made for recording of proceedings, except that if such proceedings are not recorded, then, in that event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases. In the event that such proceedings are recorded, all final decisions of the county municipal court shall be appealable on such record to the appellate court with appropriate jurisdiction.

9. Any person charged with the violation of a county ordinance in a county which has established a county municipal court under the provisions of this section shall, upon request, be entitled to a trial by jury before a county municipal court judge. Any jury trial shall be heard with a record being made.

10. In the event that a court is established pursuant to this section, the circuit judges of the judicial circuit with jurisdiction within that county may authorize the judges of the county municipal court to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles as provided by local rule.

67.048. ANNUAL REPORT REQUIRED, WHEN. — Any county board that receives funding from the county treasury and whose members are appointed by the county commission shall submit an annual report to the county commission at the end of each fiscal year itemizing its expenditures.

67.110. FIXING AD VALOREM PROPERTY TAX RATES, PROCEDURE — FAILURE TO ESTABLISH, EFFECT — NEW OR INCREASED TAXES APPROVED AFTER SEPTEMBER 1 NOT TO BE INCLUDED IN THAT YEAR'S TAX LEVY, EXCEPTION. — 1. Each political subdivision in the

state, except counties, shall fix its ad valorem property tax rates as provided in this section not later than September first for entry in the tax books. Before the governing body of each political subdivision of the state, except counties, as defined in section 70.120, RSMo, fixes its rate of taxation, its budget officer shall present to its governing body the following information for each tax rate to be levied: The assessed valuation by category of real, personal and other tangible property in the political subdivision as entered in the tax book for the fiscal year for which the tax is to be levied, as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivisions for the preceding taxable year, the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rate proposed to be set. Should any political subdivision whose taxes are collected by the county collector of revenue fail to fix its ad valorem property tax rate by September first, then no tax rate other than the rate, if any, necessary to pay the interest and principal on any outstanding bonds shall be certified for that year.

2. The governing body shall hold at least one public hearing on the proposed rates of taxes at which citizens may be heard prior to their approval. The governing body shall determine the time and place for such hearing. A notice stating the hour, date and place of the hearing shall be published in at least one newspaper qualified under the laws of the state of Missouri of general circulation in the county within which all or the largest portion of the political subdivision is situated, or such notice shall be posted in at least three public places within the political subdivision; except that, in any county of the first class having a charter form of government, such notice may be published in a newspaper of general circulation within the political subdivision even though such newspaper is not qualified under the laws of Missouri for other legal notices. Such notice shall be published or posted at least seven days prior to the date of the hearing. The notice shall include the assessed valuation by category of real, personal and other tangible property in the political subdivision for the fiscal year for which the tax is to be levied as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivision for the preceding taxable year, for each rate to be levied the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rates proposed to be set for the various purposes of taxation. The tax rates shall be calculated to produce substantially the same revenues as required in the annual budget adopted as provided in this chapter. Following the hearing the governing body of each political subdivision shall fix the rates of taxes, the same to be entered in the tax book. Failure of any taxpayer to appear at such hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this section absolves political subdivisions of responsibilities under section 137.073, RSMo, nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

3. Each political subdivision of the state shall fix its property tax rates in the manner provided in this section for each fiscal year which begins after December 31, 1976. New or increased tax rates for political subdivisions whose taxes are collected by the county collector approved by voters after September first of any year shall not be included in that year's tax levy except for any new tax rate ceiling approved pursuant to section 71.800, RSMo.

4. In addition to the information required under subsections 1 and 2 of this section, each political subdivision shall also include the increase in tax revenue due to an increase in assessed value as a result of new construction and improvement and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted.

67.304. CHARITABLE CONTRIBUTIONS, ORGANIZATIONS MAY SOLICIT IN ROADWAY, WHEN, PROCEDURE. — 1. The governing body of any municipality or county may authorize any organization to stand in a road in such municipality or county to solicit a

charitable contribution. Any organization seeking authorization under this section shall file a written application with the governing body no later than the eleventh day before the solicitation is to begin. The application shall include:

(1) The date and time the solicitation is to occur;

(2) The location of the solicitation; and

(3) The number of solicitors to be involved at each location of the solicitation.

2. The governing body may require the applicant to obtain a permit or to pay a reasonable fee to receive the authorization.

3. The governing body may require proof of liability insurance in the amount determined by the municipality or county to cover damages that may arise from the solicitation. The insurance shall provide coverage against claims against the applicant and claims against the governing body.

4. Collections shall only be conducted at intersections controlled by electronic signal lights or by four-way stop signs.

5. The governing body may set a minimum age requirement for all individuals participating in charitable solicitation activities under this section.

67.320. COUNTY ORDERS, VIOLATIONS MAY BE BROUGHT IN CIRCUIT COURT, WHEN — COUNTY MUNICIPAL COURT TO BE APPROVED, APPOINTMENT OF JUDGES, PROCEDURES (JEFFERSON COUNTY). — 1. Any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may prosecute and punish violations of its county orders in the circuit court of such counties in the manner and to the extent herein provided or in a county municipal court if creation of a county municipal court is approved by order of the county commission. The county may adopt orders with penal provisions consistent with state law **[**but only in the areas of traffic violations, solid waste management and animal control**], but only in the areas of traffic violations, solid waste management, county building codes, on-site sewer treatment, zoning orders, and animal control**. Any county municipal court established pursuant to the provisions of this section shall have jurisdiction over violations of that county's orders and the ordinances of municipalities with which the county has a contract to prosecute and punish violations of municipal ordinances of the municipality.

2. In any county which has elected to establish a county municipal court pursuant to this section, the judges for such court shall be appointed by the county commission of such county, subject to confirmation by the legislative body of such county in the same manner as confirmation for other county appointed officers. The number of judges appointed, and qualifications for their appointment, shall be established by order of the commission.

3. The practice and procedure of each prosecution shall be conducted in compliance with all of the terms and provisions of sections 66.010 to 66.140, RSMo, except as provided for in this section.

4. Any use of the term ordinance in sections 66.010 to 66.140, RSMo, shall be synonymous with the term order for purposes of this section.

67.321. PUBLIC FOOD SERVICE ESTABLISHMENTS, PETS PERMITTED, WHEN. — 1. Notwithstanding any other provision of law to the contrary, the governing body of any county or municipality shall have the authority to establish an ordinance to allow patrons' pets, as defined in subdivision (20) of section 266.160, RSMo, except for specialty pets as defined in subdivision (25) of section 266.160, RSMo, within certain designated outdoor portions of public food service establishments.

2. The governing body shall require from the public food service establishment the following information:

(1) A diagram and description of the outdoor area to be designated as available to patrons' pets, including dimensions of the designated area;

(2) A depiction of the number and placement of tables, chairs, and restaurant equipment;

(3) Entryways and exits to the designated outdoor area;

(4) The boundaries of the designated area and of other areas of outdoor dining not available to patrons' pets;

(5) Any fences or other barriers;

(6) Surrounding property lines and public rights-of-way including sidewalks and common pathways; and

(7) Any other information deemed necessary by the governing body.

67.457. ESTABLISHMENT OF NEIGHBORHOOD IMPROVEMENT DISTRICTS — PROCEDURE — NOTICE OF ELECTIONS, CONTENTS — ALTERNATIVES, PETITION, CONTENTS — MAINTENANCE COSTS, ASSESSMENT. — 1. To establish a neighborhood improvement district, the governing body of any city or county shall comply with either of the procedures described in subsection 2 or 3 of this section.

2. The governing body of any city or county proposing to create a neighborhood improvement district may by resolution submit the question of creating such district to all qualified voters residing within such district at a general or special election called for that purpose. Such resolution shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, and the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year during the term of the bonds issued for the original improvement and after such bonds are paid in full. The governing body of the city or county may create a neighborhood improvement district when the question of creating such district has been approved by the vote of the percentage of electors within such district voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of such city or county under article VI, section 26 of the constitution of this state. The notice of election containing the question of creating a neighborhood improvement district shall contain the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds issued for the original improvement are paid in full, and a statement that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such notice, by more than twenty-five percent, and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such notice, by more than twenty-five percent. The ballot upon which the question of creating a neighborhood improvement district is submitted to the qualified voters residing within the proposed district shall contain a question in substantially the following form:

Shall ..... (name of city or county) be authorized to create a neighborhood improvement district proposed for the ..... (project name for the proposed improvement) and incur indebtedness and issue general obligation bonds to pay for all or part of the cost of public improvements within such district, the cost of all indebtedness so incurred to be assessed by the governing body of the ..... (city or county) on the real property benefited by such improvements for a period of ..... years, and, if included in the resolution, an assessment in each year thereafter with the proceeds thereof used solely for maintenance of the improvement?

3. As an alternative to the procedure described in subsection 2 of this section, the governing body of a city or county may create a neighborhood improvement district when a proper petition

has been signed by the owners of record of at least two-thirds by area of all real property located within such proposed district. **Each owner of record of real property located in the proposed district is allowed one signature. Any person, corporation, or limited liability partnership owning more than one parcel of land located in such proposed district shall be allowed only one signature on such petition.** The petition, in order to become effective, shall be filed with the city clerk or county clerk. A proper petition for the creation of a neighborhood improvement district shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year during the term of the bonds issued for the original improvement and after such bonds are paid in full, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the city clerk or county clerk, and a notice that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent, and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such petition, by more than twenty-five percent.

4. Upon receiving the requisite voter approval at an election or upon the filing of a proper petition with the city clerk or county clerk, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the district be established and that preliminary plans and specifications for the improvement be made. Such resolution or ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds issued for the original improvement are paid in full, and shall also state that the final cost of such improvement assessed against the real property within the neighborhood improvement district and the amount of general obligation bonds issued therefor shall not, without a new election or petition, exceed the estimated cost of such improvement by more than twenty-five percent.

5. The boundaries of the proposed district shall be described by metes and bounds, streets or other sufficiently specific description. The area of the neighborhood improvement district finally determined by the governing body of the city or county to be assessed may be less than, but shall not exceed, the total area comprising such district.

6. In any neighborhood improvement district organized prior to August 28, 1994, an assessment may be levied and collected after the original period approved for assessment of property within the district has expired, with the proceeds thereof used solely for maintenance of the improvement, if the residents of the neighborhood improvement district either vote to assess real property within the district for the maintenance costs in the manner prescribed in subsection 2 of this section or if the owners of two-thirds of the area of all real property located within the district sign a petition for such purpose in the same manner as prescribed in subsection 3 of this section.

67.463. PUBLIC HEARING, PROCEDURE — APPORTIONMENT OF COSTS — SPECIAL ASSESSMENTS, NOTICE — PAYMENT AND COLLECTION OF ASSESSMENTS. — 1. At the hearing to consider the proposed improvements and assessments, the governing body shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications therefor, or assessments as to any property, and thereupon by ordinance or resolution the governing body of the city or

county shall order that the improvement be made and direct that financing for the cost thereof be obtained as provided in sections 67.453 to 67.475.

2. After construction of the improvement has been completed in accordance with the plans and specifications therefor, the governing body shall compute the final costs of the improvement and apportion the costs among the property benefited by such improvement in such equitable manner as the governing body shall determine, charging each parcel of property with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the improvement or the amount of general obligation bonds issued or to be issued therefor as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the ordinance or resolution assessing the special assessments, the city clerk or county clerk shall mail a notice to each property owner within the district which sets forth a description of each parcel of real property to be assessed which is owned by such owner, the special assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued thereon from the effective date of such ordinance or resolution, on or before a specified date determined by the effective date of the ordinance or resolution, or may pay such assessment in annual installments as provided in subsection 4 of this section.

4. The special assessments shall be assessed upon the property included therein concurrent with general property taxes, and shall be payable in substantially equal annual installments for a duration stated in the ballot measure prescribed in subsection 2 of section 67.457 or in the petition prescribed in subsection 3 of section 67.457, and, if authorized, an assessment in each year thereafter levied and collected in the same manner with the proceeds thereof used solely for maintenance of the improvement, taking into account such assessments and interest thereon, as the governing body determines. The first installment shall be payable after the first collection of general property taxes following the adoption of the assessment ordinance or resolution unless such ordinance or resolution was adopted and certified too late to permit its collection at such time. All assessments shall bear interest at such rate as the governing body determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between the effective date of the ordinance or resolution assessing the assessment and the date the first installment is payable shall be added to the first installment. The interest for one year on all unpaid installments shall be added to each subsequent installment until paid. In the case of a special assessment by a city, all of the installments, together with the interest accrued or to accrue thereon, may be certified by the city clerk to the county clerk in one instrument at the same time. Such certification shall be good for all of the installments, and the interest thereon payable as special assessments.

5. Special assessments shall be collected and paid over to the city treasurer or county treasurer in the same manner as taxes of the city or county are collected and paid. **In any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants, the county collector may collect a fee as prescribed by section 52.260, RSMo, for collection of assessments under this section.**

67.797. BOARD OF DIRECTORS APPOINTED FOR DISTRICT OR ELECTED IN CERTAIN DISTRICTS (CLAY COUNTY), QUALIFICATIONS — TERMS — OFFICERS — POWERS AND DUTIES — MONEY TO BE DEPOSITED IN TREASURY OF COUNTY CONTAINING LARGEST PORTION OF DISTRICT. — 1. When a regional recreational district is organized in only one county, the executive, as that term is defined in subdivision (4) of section 67.750, with the advice and consent of the governing body of the county shall appoint a board of directors for the district consisting of seven persons, chosen from the residents of the district. Where the district is in more than one county, the executives, as defined in subdivision (4) of section 67.750, of the counties in the district **[**shall**]**, with the advice and consent of the governing bodies of each county shall, as nearly as practicable, evenly appoint such members and allocate staggered terms

pursuant to subsection 2 of this section, with the county having the largest area within the district appointing a greater number of directors if the directors cannot be appointed evenly. No member of the governing body of the county or official of any municipal government located within the district shall be a member of the board and no director shall receive compensation for performance of duties as a director. Members of the board of directors shall be citizens of the United States and they shall reside within the district. No board member shall be interested directly or indirectly in any contract entered into pursuant to sections 67.792 to 67.799.

2. The directors appointed to the regional recreation district shall hold office for three-year terms, except that of the members first appointed, two shall hold office for one year, two shall hold office for two years and three shall hold office for three years. The executives of the counties within the regional recreational district shall meet to determine and implement a fair allocation of the staggered terms among the counties, provided that counties eligible to appoint more than one board member may not appoint board members with identical initial terms until each of a one-year, two-year and three-year initial term has been applied to such county. On the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by the executives of the respective counties, with the advice and consent of the respective governing bodies. All vacancies on the board shall be filled in the same manner for the duration of the term being filled. Board members shall serve until their successors are named and such successors have commenced their terms as board members. Board members shall be eligible for reappointment. Upon the petition of the county executive of the county from which the board member received his or her appointment, the governing body of the county may remove any board member for misconduct or neglect of duties.

3. Notwithstanding any other provision of sections 67.750 to 67.799, to the contrary, after August 28, 2004, in any district located in whole or in part in any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, upon the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by election at the next regularly scheduled election date throughout the district. In the event that a vacancy exists before the expiration of a term, the governing body of the county shall appoint a member for the remainder of the unexpired term. Board members shall be elected for terms of three years. Such elections shall be held according to this section and the applicable laws of this state. If no person files as a candidate for election to the vacant office within the applicable deadline for filing as a candidate, then the governing body of any such county shall appoint a person to be a member of the board for a term of three years. Any appointed board members shall be eligible to run for office.

4. Directors shall immediately after their appointment meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. The directors shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the parks, neighborhood trails and recreational grounds and facilities as may be expedient, not inconsistent with sections 67.792 to 67.799. They shall have the exclusive control of the expenditures of all money collected to the credit of the regional recreational fund and of the supervision, improvement, care and custody of public parks, neighborhood trails, recreational facilities and grounds owned, maintained or managed by the district. All moneys received for such purposes shall be deposited in the treasury of the county containing the largest portion of the district to the credit of the regional recreational fund and shall be kept separate and apart from the other moneys of such county. Such board shall have power to purchase or otherwise secure ground to be used for such parks, neighborhood trails, recreational grounds and facilities, shall have power to appoint suitable persons to maintain such parks, neighborhood trails and recreational facilities and administer recreational programs and fix their compensation, and shall have power to remove such appointees.

5. The board of directors may issue debt for the district pursuant to section 67.798.

6. If a county, or a portion of a county, not previously part of any district, shall enter a district, the executives of the new member county and any previous member counties shall promptly meet to apportion the board seats among the counties participating in the enlarged district. All purchases in excess of ten thousand dollars used in the construction or maintenance of any public park, neighborhood trail or recreational facility in the regional recreation district shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the district shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.

7. Notwithstanding any other provisions in this section to the contrary, when a regional recreational district is organized in only one county on land owned solely by the county, the governing body of the county shall have exclusive control of the expenditures of all moneys collected to the credit of the regional recreational fund, and of the supervision, improvement, care, and custody of public parks, neighborhood trails, recreational facilities, and grounds owned, maintained, or managed by the county within the district.

67.997. SENIOR SERVICES AND YOUTH PROGRAM SALES TAX — BALLOT LANGUAGE — TRUST FUND CREATED, USE OF MONEYS (PERRY COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eighteen thousand one hundred but fewer than eighteen thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding senior services and youth programs provided by the county. One-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund any service or activity deemed necessary by the senior service tax commission established in this section, and one-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund all youth programs administered by an existing county community task force. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the county) impose a sales tax at a rate of ..... (insert rate of percent) percent, with half of the revenue from the tax, less one-half the cost of collection, to be used solely to fund senior services provided by the county and half of the revenue from the tax, less one-half the cost of collection, to be used solely to fund youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following the approval of the tax or notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. On or after the effective date of any tax authorized under this section, the county which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Senior Services and Youth Programs Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding senior services and youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Each county imposing the tax authorized in this section shall establish a senior services tax commission to administer the portion of the sales tax revenue dedicated to providing senior services. Such commission shall consist of seven members appointed by the county commission. The county commission shall determine the qualifications, terms of office, compensation, powers, duties, restrictions, procedures, and all other necessary functions of the commission.

67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES. — 1. The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand, may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted under section 115.123, RSMo, a proposal to authorize the governing body of the city

or county to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. In any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests", as used in this section and section 67.1002, means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter.

[67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES. — The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any city which has a population of at least seventeen thousand but not more than forty-five thousand inhabitants located in a county of the first classification with a charter form of government with a population of at least two hundred thousand inhabitants but not more than three hundred thousand inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at an election permitted pursuant to section 115.123, RSMo, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.**]**

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or (1) a county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand; (4) or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand; (5) or any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants**; (6) or any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants** may impose

a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1181. AUDIT REQUIRED, PROMOTION OF TOURISM MONEYS. — Any political subdivision authorized by this chapter to collect and expend tax revenues imposed by such political subdivision for the advertising and promotion of tourism shall perform, or cause to be performed, an audit of its finances at least once every five calendar years if no other statutory auditing requirement exists for such political subdivision. The political subdivision shall pay the actual cost of the audit from the revenues for operating costs. The first such audit required by this section shall be completed no later than January 1, 2009.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county **through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-2006 between one thousand eight hundred and one thousand nine hundred inhabitants**;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; **[**or**]**

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants**; or**

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1401. DEFINITIONS. — 1. Sections 67.1401 to 67.1571 shall be known and may be cited as the "Community Improvement District Act".

2. For the purposes of sections 67.1401 to 67.1571, the following words and terms mean:

(1) "Approval" or "approve", for purposes of elections pursuant to sections 67.1401 to 67.1571, a simple majority of those qualified voters voting in the election;

(2) "Assessed value", the assessed value of real property as reflected on the tax records of the county clerk of the county in which the property is located, or the collector of revenue if the property is located in a city not within a county, as of the last completed assessment;

(3) "Blighted area", an area which:

(a) By reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use; or

(b) Has been declared blighted or found to be a blighted area pursuant to Missouri law including, but not limited to, chapter 353, RSMo, sections 99.800 to 99.865, RSMo, or sections 99.300 to 99.715, RSMo;

(4) "Board", if the district is a political subdivision, the board of directors of the district, or if the district is a not-for-profit corporation, the board of directors of such corporation;

(5) "Director of revenue", the director of the department of revenue of the state of Missouri;

(6) "District", a community improvement district, established pursuant to sections 67.1401 to 67.1571;

(7) "Election authority", the election authority having jurisdiction over the area in which the boundaries of the district are located pursuant to chapter 115, RSMo;

(8) "Municipal clerk", the clerk of the municipality;

(9) "Municipality", any city, village, incorporated town, or county of this state, or in any unincorporated area that is located in any county with a charter form of government and with more than one million inhabitants;

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a district to carry out any of its powers, duties or purposes or to refund outstanding obligations;

(11) "Owner", for real property, the individual or individuals or entity or entities who own a fee interest in real property that is located within the district or their legally authorized representative; for business organizations and other entities, the owner shall be deemed to be the individual which is legally authorized to represent the entity in regard to the district;

(12) "Per capita", one head count applied to each individual, entity or group of individuals or entities having fee ownership of real property within the district whether such individual, entity or group owns one or more parcels of real property in the district as joint tenants, tenants in common, tenants by the entirety **[**or**],** tenants in partnership**, except that with respect to a condominium created under sections 448.1-101 to 448.4-120, RSMo, "per capita" means one head count applied to the applicable unit owners' association and not to each unit owner**;

(13) "Petition", a petition to establish a district as it may be amended in accordance with the requirements of section 67.1421;

(14) "Qualified voters",

(a) For purposes of elections for approval of real property taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property which is to be subject to such real property taxes and is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;

(b) For purposes of elections for approval of business license taxes or sales taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property located within the district per the tax records for real property of the county clerk as of the thirtieth day before the date of the applicable election; and

(c) For purposes of the election of directors of the board, registered voters and owners of real property which is not exempt from assessment or levy of taxes by the district and which is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, of the thirtieth day prior to the date of the applicable election; and

(15) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115, RSMo, pursuant to the records of the election authority as of the thirtieth day prior to the date of the applicable election.

67.1451. BOARD OF DIRECTORS, ELECTION, QUALIFICATIONS, APPOINTMENT, TERMS, REMOVAL, ACTIONS. — 1. If a district is a political subdivision, the election and qualifications of members to the district's board of directors shall be in accordance with this section. If a district is a not-for-profit corporation, the election and qualification of members to its board of directors shall be in accordance with chapter 355, RSMo.

2. The district shall be governed by a board consisting of at least five but not more than thirty directors. Each director shall, during his or her entire term, be:

(1) At least eighteen years of age; and

(2) Be either:

(a) An owner, as defined in section 67.1401, of real property or of a business operating within the district; or

(b) **[**If in a home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants, a legally authorized representative of an owner of real property located within the district. If there are less than five owners of real property located within a district, the board may be comprised of up to five legally authorized representatives of any of the owners of real property located within the district; or

(c)**]** A registered voter residing within the district; and

(3) Any other qualifications set forth in the petition establishing the district.

If there are fewer than five owners of real property located within a district, the board may be comprised of up to five legally authorized representatives of any of the owners of real property located within the district.

3. If the district is a political subdivision, the board shall be elected or appointed, as provided in the petition.

4. If the board is to be elected, the procedure for election shall be as follows:

(1) The municipal clerk shall specify a date on which the election shall occur which date shall be a Tuesday and shall not be earlier than the tenth Tuesday, and shall not be later than the fifteenth Tuesday, after the effective date of the ordinance adopted to establish the district;

(2) The election shall be conducted in the same manner as provided for in section 67.1551, provided that the published notice of the election shall contain the information required by section 67.1551 for published notices, except that it shall state that the purpose of the election is for the election of directors, in lieu of the information related to taxes;

(3) Candidates shall pay the sum of five dollars as a filing fee and shall file not later than the second Tuesday after the effective date of the ordinance establishing the district with the municipal clerk a statement under oath that he or she possesses all of the qualifications set out in this section for a director. Thereafter, such candidate shall have his or her name placed on the ballot as a candidate for director;

(4) The director or directors to be elected shall be elected at large. The person receiving the most votes shall be elected to the position having the longest term; the person receiving the second highest votes shall be elected to the position having the next longest term and so forth.

For any district formed prior to August 28, 2003, of the initial directors, one-half shall serve for a two-year term, one-half shall serve for a four-year term and if an odd number of directors are elected, the director receiving the least number of votes shall serve for a two-year term, until such director's successor is elected. For any district formed on or after August 28, 2003, for the initial directors, one-half shall serve for a two-year term, and one-half shall serve for the term specified by the district pursuant to subdivision (5) of this subsection, and if an odd number of directors are elected, the director receiving the least number of votes shall serve for a two-year term, until such director's successor is elected;

(5) Successor directors shall be elected in the same manner as the initial directors. The date of the election of successor directors shall be specified by the municipal clerk which date shall be a Tuesday and shall not be later than the date of the expiration of the stated term of the expiring director. Each successor director shall serve a term for the length specified prior to the election by the district, which term shall be at least three years and not more than four years, and shall continue until such director's successor is elected. In the event of a vacancy on the board of directors, the remaining directors shall elect an interim director to fill the vacancy for the unexpired term.

5. If the petition provides that the board is to be appointed by the municipality, such appointments shall be made by the chief elected officer of the municipality with the consent of the governing body of the municipality. For any district formed prior to August 28, 2003, of the initial appointed directors, one-half of the directors shall be appointed to serve for a two-year term and the remaining one-half shall be appointed to serve for a four-year term until such director's successor is appointed; provided that, if there is an odd number of directors, the last person appointed shall serve a two-year term. For any district formed on or after August 28, 2003, of the initial appointed directors, one-half shall be appointed to serve for a two-year term, and one-half shall be appointed to serve for the term specified by the district for successor directors pursuant to this subsection, and if an odd number of directors are appointed, the last person appointed shall serve for a two-year term; provided that each director shall serve until such director's successor is appointed. Successor directors shall be appointed in the same manner as the initial directors and shall serve for a term of years specified by the district prior to the appointment, which term shall be at least three years and not more than four years.

6. If the petition states the names of the initial directors, those directors shall serve for the terms specified in the petition and successor directors shall be determined either by the above-listed election process or appointment process as provided in the petition.

7. Any director may be removed for cause by a two-thirds affirmative vote of the directors of the board. Written notice of the proposed removal shall be given to all directors prior to action thereon.

8. The board is authorized to act on behalf of the district, subject to approval of qualified voters as required in this section; except that, all official acts of the board shall be by written resolution approved by the board.

67.1485. MERGER OF DISTRICTS, WHEN — ASSESSMENTS, EFFECT ON. — 1. Any district organized as a nonprofit corporation may merge with another district organized as a nonprofit organization. Such merger shall be conducted under the procedures for merger provided in chapter 355, RSMo, and shall not become effective unless:

(1) The boundaries of the merging districts are contiguous;

(2) The articles of merger required under section 355.361, RSMo, contain a legal description of the surviving district corporation;

(3) The term of existence of the surviving district corporation stated in the articles of merger shall be equal to the shortest length of time remaining for existence of either merging district corporation as determined by the applicable ordinances establishing the merging district corporations;

(4) A copy of the articles of merger is sent to the department of economic development.

2. If two district corporations merge under this section, the board of directors of the surviving district corporation may continue to levy special assessments against such tracts, lots, or parcels listed, and in an amount as provided in, a previously authorized petition under section 67.1521, provided that the level of service stated in such petition is not decreased by the surviving district corporation. A new special assessment petition may be submitted to the surviving district corporation and, if stated in the petition, may supersede or replace the previously authorized special assessment petitions.

3. No merger under this section shall be construed to be a petition for termination under section 67.1481 or to invoke a plan of dissolution as provided in section 67.1481.

67.1545. SALES AND USE TAX AUTHORIZED IN CERTAIN DISTRICTS — PROCEDURE TO ADOPT, BALLOT LANGUAGE, IMPOSITION AND COLLECTION BY RETAILERS — PENALTIES FOR VIOLATIONS — DEPOSIT INTO TRUST FUND, USE — REPEAL PROCEDURE. — 1. Any district formed as a political subdivision may impose by resolution a district sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors and sales to public utilities. Any sales and use tax imposed pursuant to this section may be imposed in increments of one-eighth of one percent, up to a maximum of one percent. Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district submits to the qualified voters of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

2. The ballot shall be substantially in the following form:

Shall the ..... (insert name of district) Community Improvement District impose a community improvement districtwide sales and use tax at the maximum rate of ..... (insert amount) for a period of ..... (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for ..... (insert general description of the purpose)?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the district shall, in accordance with section **[**32.097**]** **32.087**, RSMo, notify the director of the department of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of the department of revenue receives notice of the adoption of such tax.

4. The director of the department of revenue shall collect any tax adopted pursuant to this section pursuant to section 32.087, RSMo.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the district to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. In order to allow retailers to collect and report the sales and use tax authorized by this section as well as all other sales and use taxes required by law in the simplest and most efficient manner possible, a district may establish appropriate brackets to be used in the district imposing a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to violations of this section.

8. All revenue received by the district from a sales and use tax imposed pursuant to this section which is designated for a specific purpose shall be deposited into a special trust fund and expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the resolution adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors pursuant to applicable laws relating to the investment of other district funds.

9. A district may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the district's ability to repay any liabilities the district has incurred, moneys the district has borrowed or obligation the district has issued to finance any improvements or services rendered for the district.

10. Notwithstanding the provisions of chapter 115, RSMo, an election for a district sales and use tax under this section shall be conducted in accordance with the provisions of this section.

67.1561. STATUTE OF LIMITATIONS. — No lawsuit to set aside a district established, or a special assessment or a tax levied under sections 67.1401 to 67.1571 or to otherwise question the validity of the proceedings related thereto shall be brought after the expiration of ninety days from the effective date of the ordinance establishing such district in question or the effective date of the resolution levying such special assessment or tax in question **or the effective date of a merger of two districts under section 67.1485**.

67.2040. SALES TAX AUTHORIZED — BALLOT LANGUAGE — REVENUE, USE OF MONEYS — REPEAL OF TAX, BALLOT LANGUAGE. — 1. The governing body of any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall be equal to one-eighth of one percent, and shall be imposed solely for the purpose of funding construction for a shelter for women and children, as defined in section 455.200, RSMo. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election, a proposal to authorize the governing body of the county to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the political subdivision) impose a sales tax at a rate of ..... (insert rate of percent) percent, solely for the purpose of funding construction for a shelter for women and children?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are

opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Women's and Children's Shelter Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. Any sales tax imposed under this section shall expire three years after the date such tax becomes effective, unless such tax is repealed under this section before the expiration date provided for in this subsection.

7. The governing body of any county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the political subdivision) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding construction for a shelter for women and children?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

9. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS. — 1. **A theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2505 by** the governing body of any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this subsection, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, **infrastructure,** transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of **[**fifty**]** **twenty-five** contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing **and approval** of a petition pursuant to this section, the governing body of any city, town, or village described in this section **[**may**]** **shall** pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

[67.2505. FORMATION OF A DISTRICT, NAME OF, SIZE — SUBDISTRICTS AUTHORIZED — PROCEDURE FOR ESTABLISHING A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.**]**

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, **a theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2515 by** a circuit court with jurisdiction over any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this section, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants.

67.2555. COMPETITIVE BIDS REQUIRED, WHEN (JACKSON COUNTY). — Any expenditure of more than **[**five**] twenty-five** thousand dollars made by the county executive of a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants must be competitively bid.

70.220. POLITICAL SUBDIVISIONS MAY COOPERATE WITH EACH OTHER, WITH OTHER STATES, THE UNITED STATES OR PRIVATE PERSONS — TAX DISTRIBUTION AGREEMENT, AUTHORIZED FOR CERTAIN COUNTY AND CITY (GREENE COUNTY AND CITY OF SPRINGFIELD). — 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or

of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

2. Any municipality or political subdivision of this state may contract with one or more adjacent municipalities or political subdivisions to share the tax revenues of such cooperating entities that are generated from real property and the improvements constructed thereon, if such real property is located within the boundaries of either or both municipalities or subdivisions and within three thousand feet of a common border of the contracting municipalities or political subdivisions. The purpose of such contract shall be within the scope of powers of each municipality or political subdivision. Municipalities or political subdivisions separated only by a public street, easement, or right-of-way shall be considered to share a common border for purposes of this subsection.

3. If **[**such**] any** contract or cooperative action **[**shall be**]** entered into **under this section is** between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, **[**said**] such** contract or cooperative action **[**must**] shall** be approved by the governing body of the unit of government in which such elective or appointive official resides.

[2.**] 4.** In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification without a charter form of government and a constitutional charter city with a population of more than one hundred forty thousand that is located in said county prior to a vote to authorize the imposition of such tax, then all revenue received from such tax shall be distributed in accordance with said agreement for so long as the tax remains in effect or until the agreement is modified by mutual agreement of the parties.

70.226. LOCAL PUBLIC HEALTH AGENCIES CONSIDERED POLITICAL SUBDIVISION, WHEN, WHAT PURPOSE. — 1. Notwithstanding the provisions of sections 70.600 to 70.755 to the contrary, a local public health agency created by a joint municipal agreement under the provisions of sections 70.210 to 70.320 existing within any county of the third classification may be considered a political subdivision for the purposes of sections 70.600 to 70.755, and employees of the local public health agency shall be eligible for membership in the Missouri local government employees' retirement system upon the local public health agency becoming an employer, as defined in subdivision (11) of section 70.600.

2. A local public health agency granted membership under subsection 1 of this section shall be permitted to dissolve or otherwise terminate its existence only upon a finding by the local public health agency's board of directors that all of the local public health agency's outstanding indebtedness has been paid, including moneys owed to the Missouri local government employees' retirement system for the unfunded accrued liability of its past and current employees.

3. Any political subdivision withdrawing from membership in a local public health agency that participates in the Missouri local government employees' retirement system shall be required to pay to the local public health agency its pro rata share of contributions for any unfunded liabilities for the local public health agency's past and current employees as of the effective date of the political subdivision's withdrawal from membership in the local public health agency. Any political subdivision becoming a new member of a local public health agency shall be subject to the same terms and conditions then existing, including the liabilities in proportion to all participating political subdivisions as set forth in the compact or other such agreement.

70.515. REGIONAL INVESTMENT DISTRICT COMPACT WITH KANSAS AND MISSOURI. — **Subject to the applicable provisions of section 70.545,** the Regional Investment District Compact is hereby enacted into law and entered into by the state of Missouri with the state of Kansas legally joining therein, in the form substantially as follows:

[KANSAS AND MISSOURI**]** REGIONAL INVESTMENT DISTRICT COMPACT

I. AGREEMENT AND PLEDGE

The **[**states of Kansas and Missouri**]** **participants in this Compact** agree to and pledge, each to the other, faithful cooperation in the support of regional programs and initiatives to benefit and serve the Kansas City metropolitan area, holding in high trust for the benefit of the people and of the nation, the special blessings and natural advantages thereof.

II. POLICY AND PURPOSE

The **[**states of Kansas and Missouri desire, by common action,**]** **purpose of this Compact is** to provide support for regional programs and initiatives that will produce significant benefit to the Kansas City metropolitan area, with the goal of making more efficient use of resources through inter-jurisdictional cooperation on strategic regional programs and initiatives involving public transit.

III. DEFINITIONS

A. "Commission" means the governing body of the **[**Kansas and Missouri**]** Regional Investment District.

B. "District" means the **[**Kansas and Missouri**]** Regional Investment District.

C. "**[**Kansas and Missouri**]** Regional Investment District" or "District" means a political subdivision of the states **[**of Kansas and Missouri, which**]** **that have adopted this Compact,** is created by this Compact and which is composed of **Buchanan County and of** those Kansas and Missouri counties, cities and other political subdivisions that are now or hereafter shall become parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, which geographic area covered by those political subdivisions is therein designated as the Mid-America Regional Planning Area.

D. "Mid-America Regional Council or MARC" means the body corporate and politic created by the Articles of Agreement, originally executed on January 1, 1972, and as thereafter amended, which therein assumed all the rights, duties and obligations of the Mid-America Council of Governments and the Metropolitan Planning Commission - Kansas City Region.

E. "Oversight Committee or Committee" means a body or bodies appointed by the Commission for a Regional Program that shall be constituted as set forth in Article IX of this Compact and that shall have the powers set forth in Article X of this Compact.

F. "Program Plan" means a plan developed for a proposed ballot question by the Commission, as required by Article VI, Section C of this Compact, that describes a Regional Program and provides for the appropriation and use of moneys derived from the sales tax authorized by this Compact in support of that Regional Program.

G. "Public Transit System" or "Transit System" means, without limitation, a regional system of public transit, consisting of property, structures, improvements, vehicles, potentially including, but not limited to, vans, buses, bus rapid transit, commuter rail, and other fixed guideways, equipment, software, telecommunications networks, plants, parking or other facilities, transit centers, stops, park-n-ride lots, transit related surface transportation improvements and rights-of-way used or useful for the purposes of public transit, which provides significant regional benefit, and the acquisition, construction, reconstruction, repair, maintenance, administration and operations thereof and similar activities related thereto, whether operated by one or multiple entities.

H. "Regional Program" means a program involving a Public Transit System.

IV. DISTRICT

A. Upon this Compact being entered into law by the **[**Legislatures**]** **Legislature** of the **[**respective states**]** **State of Missouri**, the Regional Investment District is created and shall include Buchanan County, Missouri, and all the geographic area within the jurisdictional limits

of those **[**Kansas and**]** Missouri counties that are parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, which area is designated as the Mid-America Regional Planning Area, and currently includes the following counties:

Clay County, Missouri	**[**Wyandotte County, Kansas**]**
Platte County, Missouri	**[**Johnson County, Kansas**]**
Jackson County, Missouri	**[**Leavenworth County, Kansas**]**
Cass County, Missouri	
Ray County, Missouri	

B. **In the event that the Legislature of the State of Kansas enacts legislation adopting this Compact, the Regional Investment District shall also include all the geographic area within the jurisdictional limits of those Kansas counties that are parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, which area is designated as the Mid-America Regional Planning Area, and currently includes the following counties:**

Wyandotte County, Kansas

Johnson County, Kansas

Leavenworth County, Kansas

C. The District automatically shall be expanded to include Kansas and Missouri cities, counties and other political subdivisions that hereafter shall become parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, upon the execution of the Articles of Agreement by the governing body of such political subdivisions.

V. THE COMMISSION

A. The District shall be governed by the Commission, which shall be a body corporate and politic and shall be composed of voting members of MARC, as that Council is constituted from time to time and which is also known as the Board of Directors and may include an elected chief official from Buchanan County appointed by its chief official. All of the members of the Commission shall be elected officials from the jurisdiction that appointed them as voting members of MARC's Board of Directors**; provided that all members of the Commission shall be from a jurisdiction in a state that has adopted the Compact**.

B. The terms of the members of the Commission shall expire concurrently with the member's tenure as an elected official of a jurisdiction that is a party to MARC's Articles of Agreement. If a jurisdiction that is a party to MARC's Articles of Agreement appoints a different member of its governing body to MARC, that newly appointed individual shall assume the position of the member replaced. Each member shall serve until that member's replacement has been sworn in as an elected official.

C. The Commission shall begin functioning immediately upon creation of the District, as provided for in Article IV, Section A hereof.

D. The Commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in the amounts the Commission may require.

E. The Commission may appoint the officers, agents, and employees, as it may require for the performance of the Commission's duties, and shall determine the qualifications and duties and fix the compensation of those officers, agents and employees.

F. The Commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the District and shall be open to the public. Public notice shall be given of all meetings of the Commission.

G. A majority of the Commissioners from each state **that has enacted the Compact** shall constitute, in the aggregate, a quorum for the transaction of business. No action of the Commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the Commissioners from each state, present at the meeting, shall vote in favor thereof. No action of the Commission taken at a meeting thereof shall be binding unless the subject of the action is included in a written agenda for the meeting, the agenda and notice

of meeting having been provided to each Commissioner at least seven calendar days prior to the meeting.

H. The Commissioners from each state shall each be subject to the provisions of the laws of either the State of Kansas or the State of Missouri (depending upon the Commissioner's state of residence) relating to conflicts of interest of public officers and employees. If any Commissioner has a direct or indirect financial interest in any facility, service provider, organization or activity supported by the District or Commission or in any other business transaction of the District or Commission, the Commissioner shall disclose that interest in writing to the other Commissioners and shall abstain from voting on any matter in relation to that facility, organization or activity or to that business transaction.

I. If any action at law or equity, or other legal proceeding, shall be brought against any Commissioner for any act or omission arising out of the performance of their duties as a Commissioner, the Commissioner shall be indemnified in whole and held harmless by the Commission for any judgment or decree entered against the Commissioner and, further, shall be defended at the cost and expense of the Commission in any resulting proceeding.

J. Each member of the Commission shall serve as a member of the Commission without compensation for that service, except for payment of their actual and reasonably necessary expenses, as provided by Article VIII, Section A, 1.

VI. POWERS AND DUTIES OF THE COMMISSION

A. The Commission, formally the governing body of the District, shall primarily function as the planning and administrative arm for the District. The Commission shall: undertake community planning to identify regional programs and initiatives that will produce significant benefit to the Kansas City metropolitan area; fully develop the specifics regarding existing regional programs and initiatives and those newly identified regional programs and initiatives; prepare a Program Plan for regional programs and initiatives in consultation with local officials and the public; prepare ballot questions for programs and initiatives that the Commission determines could appropriately be supported by the sales tax authorized by this Compact; and assist an appointed Oversight Committee when requested by the Oversight Committee in the implementation of any Regional Program approved by District qualified electors in accordance with the terms of this Compact.

B. The Commission shall adopt a seal and suitable bylaws governing its management, procedure and effective operation.

C. The Commission shall develop a Program Plan for a Regional Program that it determines could appropriately be supported by the sales tax authorized by the Compact, which Program Plan shall generally describe the Regional Program and provide for the appropriation and use of moneys in support of that Regional Program only for the Eligible Uses set forth in Article VIII of this Compact. A Program Plan shall also designate:

1. the counties or county in which a majority of the qualified electors voting on the ballot question must cast an affirmative vote before the sales tax may be imposed by any individual county for uses in accordance with the Program Plan;

2. the duration of the sales tax imposed in support of the Regional Program, which may be described in terms of the number of years the tax shall be imposed, a maximum number of dollars that may be raised by the sales tax imposed or any other reasonable means of establishing the duration of the sales tax; provided that the sales tax shall not extend beyond the fifteen (15) years following the date of the first receipt by the county treasurer of revenue from the sales tax imposed to support the Regional Program unless renewed by the qualified electors of that county prior to its expiration; and

3. the composition of the Oversight Committee to be appointed by the Commission for that Regional Program, which composition shall be consistent with Article IX, Section A of this Compact.

D. The Commission, subject to the requirements of Article VII, Section C, shall set the date or dates by which the election shall be held pursuant to this Compact and shall recommend those

counties or county which shall hold a vote on the ballot question prepared by the Commission for that Regional Program.

E. For each election to be held pursuant to this Compact, the Commission shall prepare and submit a ballot question to the governing body of each county within the District. Each such question shall be in the form set forth in Article VII, Section D of this Compact.

F. The Commission may prepare additional ballot language generally describing a Regional Program and the use and allocation of the sales tax proposed to be imposed for the support of a Regional Program, and shall submit that additional language to each county within the District. If additional ballot language is so submitted by the Commission, and a county governing body decides to place the ballot question before the qualified electors of that county, the additional ballot language shall be placed on the subject ballot by that governing body.

G. When a majority of the qualified electors in the county or counties designated in the Program Plan for that Regional Program as one of those counties that must cast an affirmative vote on the ballot question before the sales tax may be imposed, have cast an affirmative vote, the Commission shall, in accordance with Article IX, Section A of this Compact, appoint an Oversight Committee for that Program Plan.

H. The Commission shall have the power to contract and to be contracted with and to sue and to be sued.

I. The Commission, when it deems it necessary and when requested to do so by an Oversight Committee, shall interpret and/or provide guidance and further details on a Program Plan to assist in the oversight of the appropriation and use of moneys by the Oversight Committee for that Program Plan.

J. In accordance with written guidelines adopted by the Commission, which guidelines shall be consistent with the Program Plans required by Article VI, Section C, the Commission may receive or provide donations, contributions, and grants or other support, financial or otherwise, from public or private entities, for Program Plans and the Eligible Uses set forth in Article VIII of this Compact.

K. The Commission shall execute those contracts and agreements as an Oversight Committee shall direct to implement the Program Plan developed for an approved Regional Program, provided that, the Commission determines each contract is consistent with the Program Plan.

L. The Commission may appoint advisory committees to provide input, consultation, guidance and assistance to the Commission on matters and issues related to any purposes for which the District and the Commission are hereby created.

M. The Commission may form whatever partnerships, associations, joint ventures or other affiliations, formal or otherwise, as it deems appropriate and that are in furtherance of the purposes for which the District and the Commission are created.

N. The Commission may utilize assistance from any governmental or non-governmental entity, as it shall determine appropriate, in the form of personnel, technical expertise or other resources, to further the policies, purposes and goals of the District, as stated in Article II of this Compact.

O. The Commission shall cause to be prepared annually a report on the operations and transactions conducted by the Commission during the preceding year. The report shall be an open record submitted to the legislatures and governors of the compacting states and to the governing bodies of the jurisdictions that are then a party to MARC's Articles of Agreement and of Buchanan County, Missouri, on or before March 15th of each calendar year, commencing on March 15th of the year following the year in which the certification described in Article IV, Section B hereof occurs. The Commission shall take those actions as are reasonably required to make this report readily available to the public.

P. The Commission shall have the power to apply to the Congress of the United States for its consent and approval of this Compact, if it is determined by the Commission that this consent is appropriate. In the absence of the consent of the Congress and until consent is secured, if that

consent is determined appropriate, this Compact is binding upon **[**the states of Missouri and Kansas**]** **any state that has enacted it** in all respects permitted by **that state's** law **[**of the two states**]**.

Q. The Commission shall have the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers, not inconsistent with other provisions of this Compact or the constitution or laws of the United States or of **[**either of**]** the **state or** states **[**of Kansas or Missouri**]** **in which its members are located**, that it deems appropriate to effectuate the purposes for which this District and the Commission are created.

VII. BALLOT QUESTIONS

A. The Commission, as required by Article VI, Section C, shall develop Program Plans for Regional Programs to be submitted to the qualified electors within the District. A Program Plan developed by the Commission shall be available to the public for review and comment in advance of dates set by the Commission for submission of a ballot question to the electors in the District.

B. The governing body of each county in the District shall determine whether the provision of financial support for a Regional Program is in the best interests of the citizens of the county and whether the levy of a sales tax to provide, on a cooperative basis with another county or other counties, for financial support of the Regional Program would be economically practicable and cost beneficial to the citizens of the county and the District. Each governing body that makes an affirmative determination with respect hereto shall adopt a resolution evidencing that determination and authorizing a vote of its citizens on the ballot question for the Regional Program, by a two-thirds (2/3) majority vote of the members elect of the governing body.

C. Upon adoption of a resolution pursuant to Section B of this Article, the governing body of that county, promptly after adoption of the resolution, shall request the county election commissioner to submit the ballot question for that Regional Program to the qualified electors of that county. Each such ballot question shall be printed on the ballot and in the notice of election. Each ballot question shall be submitted to the qualified electors of that county at the primary or general election next following the date the request was filed with the county election officer.

D. The ballot for the proposition in each county shall be in substantially the following form:

Shall a sales tax ..... (insert amount, not to exceed one-half cent) be levied and collected in ..... County for the support of a Regional Program that will produce significant benefit within the **[**Kansas and Missouri**]** Regional Investment District, with such tax to extend no longer than ..... (insert years not to exceed fifteen) years following the first receipt by the county treasurer of revenue from such tax?

[ ] YES [ ] NO

E. The governing body of each of the counties that requested their county election commissioner submit the ballot question to its qualified electors also shall provide their respective county election officers with copies of any additional language prepared by the Commission, pursuant to Article VI, Section F, which additional language shall be included by each such county on the ballot.

F. The question of whether a sales tax for the support of a Regional Program involving a Public Transit System shall be imposed shall be submitted to qualified electors at the first election to be held on Regional Programs, pursuant to this Compact.

G. The governing body of any county in the District that does not pass the resolution contemplated by Section B of this Article in time to cause the placement of the ballot question before the qualified electors of that county at the first election or any subsequent election to be held on Regional Programs, pursuant to this Compact, may adopt that resolution at any time thereafter, and that ballot question shall be provided to the election commissioner of that county and submitted to the qualified electors of the county at the next primary or general election, in accordance with Section C of this Article.

H. In each county where a majority of the qualified electors voting in an election shall have cast an affirmative vote on a ballot question, that ballot question shall be approved.

I. If a ballot question is submitted to the qualified electors of a county in the District, and the ballot question is not approved in that county, following defeat of the ballot question, the governing body of that county or counties may renew procedures to levy the sales tax in support of that Regional Program. A defeat of a ballot question in any county shall not affect the approval of that ballot question in any other county, which approval shall continue to have effect.

J. No county in the District shall levy a sales tax specified herein until the qualified electors in all the counties designated by the Commission in the Program Plan for the subject Regional Program, as those that must approve the sales tax, have approved the levy of the sales tax to support the Program Plan for that Regional Program.

K. **[**With respect to the first election to be held on Regional Programs pursuant to this Compact, no sales tax shall be levied by any county which has adopted the resolution contemplated by Section B and has submitted the ballot question to the qualified voters of that county pursuant to Section C of this Article, unless and until a majority of the qualified electors of at least Johnson and Wyandotte Counties, Kansas, and Jackson County, Missouri, has approved the levy of a sales tax for the Regional Program involving a Public Transit System.

L.**]** When, but only when, the electors in all of the counties designated by the Commission in the Program Plan for the Regional Program, as those that must approve the sales tax, have approved that ballot question, the governing body of each county that has approved that ballot question, at the first available opportunity, shall take all required actions to begin levying this tax.

[M.**]** **L.** Any of the counties that have elected by a vote of its electors to levy a sales tax authorized by this Compact may cease to levy this sales tax upon the majority vote of the qualified electors of the county on a ballot question submitted to qualified electors asking if that county should cease to levy this sales tax. This vote shall take place in the same manner provided in this section for levying this sales tax; provided that, no vote to cease to levy this sales tax shall take place in any county on a date earlier than a date that is five years from the date that county approved this sales tax. Provided further, in no event shall any county cease to levy this sales tax until that county has entered into a written agreement with the Commission, which agreement shall provide for the terms of cessation, and shall specifically provide: (1) a means to ensure that the county pays a fair share of the outstanding obligations incurred by the District in furtherance of its established purposes; and (2) for the ongoing operations and maintenance or the termination of any facilities or services established in the county with support provided by the Commission. The governing body of a county that has decided by this vote to cease to levy this sales tax shall send formal written notice thereof to each of the other counties comprising the District. In no event, shall the county cease to levy the sales tax earlier than ninety days after this notice has been sent. If any county in the District decides to cease levying the sales tax, the status of the District as a political subdivision of the states of Kansas and Missouri shall be unaltered and that county shall continue to have the representation on the Commission, as set forth in Article V of this Compact.

VIII. ELIGIBLE USES OF FUNDS

A. The Commission shall only budget and authorize the appropriation of monies for the following eligible purposes:

1. the actual and reasonably necessary expenses of the Commission and Oversight Committee, including, but not limited to, staff personnel, auditors, budget and financial consultation, legal assistance, administrative, operational, planning and engineering consultation and marketing, as well as for the actual and reasonably necessary expenses of individual Commission and Committee members that are incurred in the performance of their official duties; provided that, the Commission, in each fiscal year, shall not appropriate, for this purpose, any monies in excess of an amount that is equal to one percent of the funds appropriated to the Commission in that fiscal year by all of the counties imposing this sales tax; and

2. the support of voter approved Regional Programs within the District;

3. only pursuant to a contract with bodies corporate and politic, political subdivisions of the states of Missouri or Kansas and/or local units of government in the states of Missouri or Kansas, provided, however, the Commission may, in its discretion, require that entities contracted with shall procure a set percentage of Public Transit System services from third party contractors on a competitive basis; and

4. only in support of a Regional Program in counties that have voted affirmatively to impose a sales tax in support of that Regional Program.

B. The aggregate amount of sales taxes imposed by any county within the District, pursuant to the authority granted in this Compact, shall not exceed one-half cent.

IX. THE OVERSIGHT COMMITTEE

A. An Oversight Committee shall be appointed by the Commission for a Regional Program, as provided for in Article VI, Section G hereof. An Oversight Committee shall be composed of elected officials of jurisdictions that are within a county where a majority of the qualified electors voting on the ballot question have cast an affirmative vote on the imposition of a sales tax to support the subject Regional Program. An Oversight Committee shall be composed of the elected officials designated in the Program Plan for the Regional Program. An Oversight Committee shall include a minimum of one elected representative from each county that approves that ballot question and elected representatives from both cities and counties and each representative shall be approved by the chief elected official of the county or city from which they are elected. If the Program Plan describes a Regional Program that serves both Missouri and Kansas, the Oversight Committee shall be composed of an equal number of elected representatives from each state. In such instances, no action of the Commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the Commissioners from each state, present at the meeting, shall vote in favor thereof. The number of individuals comprising the Oversight Committee shall be in the sole discretion of the Commission.

B. An Oversight Committee shall be appointed within forty-five days of certification that the ballot question has been approved by the last of the counties designated by the Commission in the Program Plan for the Regional Plan, pursuant to Article VI, Section C, 1 hereof, to so certify and shall begin functioning immediately upon its appointment by the Commission. If, pursuant to Article VII, Section K, additional counties within the District shall approve the ballot question, the Commission shall appoint a minimum of one additional representative from each such county to the Oversight Committee.

C. An appointed Oversight Committee shall fix the time and place at which its meetings shall be held. Meetings shall be held at a location in a county that has approved the imposition of the sales tax to support the Program Plan for the subject Regional Program and shall be open to the public. Public notice shall be given of all meetings of the Committee.

D. The Committee members shall each be subject to the provisions of the laws of either the State of Kansas or the State of Missouri (depending upon the Committee member's state of residence) that relate to conflicts of interest of public officers and employees. If any Committee member has a direct or indirect financial interest in any facility, service provider, organization or activity supported by the District or Commission or in any other business transaction of the District or Commission, the Committee member shall disclose that interest in writing to the members of the Commission and to the other members of the Committee and shall abstain from voting on any matter in relation to that facility, organization or activity or to that business transaction with respect to which that Committee member has the interest.

E. If any action at law or equity, or other legal proceeding, shall be brought against any Committee member for any act or omission arising out of the performance of duties as a Committee member, the Committee member shall be indemnified in whole and held harmless by the Commission for any judgment or decree entered against the Committee member and, further, shall be defended at the cost and expense of the Commission in any resulting proceeding.

F. The Oversight Committee for a Regional Program shall terminate on the date when all of the moneys derived from the sales tax imposed by any or all counties in the District to support the Program Plan for that Regional Program and which have been credited to the Regional Investment Fund have been expended.

X. POWERS AND DUTIES OF THE OVERSIGHT COMMITTEE

A. The Oversight Committee for an approved Regional Program is charged with the oversight of the appropriation and use of moneys generated from the sales taxes and credited to the Regional Investment Fund. These moneys shall be appropriated only for the Eligible Uses set forth in Article VIII of this Compact.

B. An Oversight Committee shall only provide support for and allocate and appropriate monies for programs, services and facilities that are consistent with the voter approved Program Plan developed by the Commission and only for programs, services and facilities in counties that have approved the imposition of a sales tax in support of the Regional Program. If the Committee is uncertain or has any question about whether a specific appropriation of moneys or support activity is consistent with the Program Plan developed by the Commission, it shall seek a determination on that question from the Commission.

C. An Oversight Committee, as appropriate, shall direct that the Commission execute those contracts and agreements necessary or desirable to implement the Program Plan developed by the Commission.

D. An Oversight Committee shall adopt suitable bylaws governing its management, procedure and its effective operations.

E. An Oversight Committee shall provide the information that the Commission shall require to allow the Commission to prepare annually a report on the operations and transactions conducted by the Commission during the preceding year relating to the approved Regional Programs. This information shall include an annual financial statement prepared in accordance with General Accepted Accounting Principles (GAAP). The Oversight Committee for a Public Transit Service Regional Program shall also provide a report on operational statistics, including statistics on the ridership of the Public Transit System funded with sales tax revenues resulting from the authority granted by this Compact, comparing ridership in the then current fiscal year to ridership in the three fiscal years next preceding.

XI. FINANCE

A. The moneys necessary to finance the operation of the District, implement the voter approved Program Plans and execute the powers, duties and responsibilities of the Commission shall be appropriated to the Commission by the counties comprising the District, which, in accordance with Article VII, Section J of the Compact, have approved the ballot question for the subject Regional Program. The moneys to be appropriated to the Commission, in addition to the sales tax authorized by this Compact, may be raised by the governing bodies of the respective counties by the levy of taxes, fees, charges or any other revenue, as authorized by those counties or cities in those counties or by the legislatures of the respective party states, provided nothing herein shall require either state to make appropriations for any purpose.

B. Neither the Commission nor any Oversight Committee shall incur any indebtedness of any kind; nor shall they pledge the credit of MARC or any jurisdiction that is party to MARC's Articles of Agreement or either of the states party to this Compact, except as specifically authorized by this Compact. The budget of the District shall be prepared, adopted and published, as provided by law, for other political subdivisions of the party states.

C. The Commission and an Oversight Committee shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

D. The accounts of the Commission shall be open at any reasonable time for inspection by duly authorized representatives of **[**the compacting states**]** **a state that has enacted this**

Compact, the counties comprising the District, and other persons authorized by the Commission.

XII. ENTRY INTO FORCE

A. This Compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been entered into law by the legislatures of the respective states.

B. Amendments to the Compact shall become effective upon enactment by the legislatures of the respective states.

XIII. TERMINATION

A. The Compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of that statute to the legislature of the other party state. Upon enactment of that statute by the legislature of either party state, the sending of notice thereof to the other party and payment of any obligations that the Commission may have incurred prior to the effective date of that statute, the agreement of the party states embodied in the Compact shall be deemed fully executed, the Compact shall be null and void and of no further force or effect, the District shall be dissolved, and the Commission shall be abolished. If any monies remain in the Regional Investment Fund upon dissolution of this Compact, the Commission may distribute these monies to an entity or organization selected by the Commission to be used to support purposes for which the District is hereby created, as stated in Article II of this Compact.

XIV. CONSTRUCTION AND SEVERABILITY

A. The provisions of this Compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitutions of either **[**of the party states**]** **a state that has enacted this Compact** or of the United States or **if** the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of either party state hereto, the Compact shall thereby be nullified and voided and of no further force or effect.

70.545. COUNTIES AND COMMISSION MAY OPERATE UNDER COMPACT IF NOT AUTHORIZED BY KANSAS, WHEN. — If the state of Kansas has not **[**authorized the compact as outlined in section 70.515**]** **enacted the Compact** by **[**July 1**]** **August 28**, 2007, **then the district described in section 70.515 shall nonetheless be created, and the district,** any Missouri county in the district **[**and**],** the **[**district,**]** Commission, and an oversight committee shall have all the powers and duties and may operate as set forth in sections 70.515 to 70.545**, provided that:**

1. The Regional Investment District created in section 70.515 shall be known as the "Missouri Regional Investment District", shall be a political subdivision solely of the state of Missouri, and shall consist only of those Missouri counties that are within the Mid-America Regional Planning Area and Buchanan County. All references to a "Regional Investment District" or "District" in section 70.515 shall be deemed to refer exclusively to the "Missouri Regional Investment District".

2. Article XII of the Compact shall be inapplicable.

71.011. TRANSFER OF CERTAIN LAND BETWEEN MUNICIPALITIES, WHEN — PROCEDURE — EXCEPTION — CONCURRENT DETACHMENT AND ANNEXATION, PROCEDURE. — 1. Except as provided in subsection 2 of this section, property of a municipality which abuts another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing bodies of each municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be concurrently detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. One certified copy of each ordinance shall be

filed with the county clerk, **with the county assessor,** with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if there are no residents living in the area or if there are residents in the area and they be notified of the annexation and do not object within sixty days.

2. In a county of the first classification with a charter form of government containing all or a portion of a city with a population of at least three hundred thousand inhabitants, unimproved property of a municipality which overlaps another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the city clerk of the contributing municipality, which shall have thirty days from receipt of said notice to pass an ordinance disapproving the change of boundary. If such ordinance is not passed within thirty days, the change shall be effective and one certified copy of the ordinance shall be filed with the county clerk, **with the county assessor,** with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if the landowners in the area are notified and do not object within sixty days.

71.012. ANNEXATION PROCEDURE, HEARING, EXCEPTIONS (PERRY COUNTY, RANDOLPH COUNTY) — CONTIGUOUS AND COMPACT DEFINED — COMMON INTEREST COMMUNITY, COOPERATIVE AND PLANNED COMMUNITY, DEFINED — OBJECTION, PROCEDURE. — 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town or village pursuant to this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations pursuant to this section merely because such voluntary annexation would create an island of unincorporated area within the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification and Mississippi River may annex areas along a road or highway up to two miles from existing boundaries of the city, town or village or the governing body in any city, town or village in any county of the third classification without a township form of government with a population of at least twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such county contains a state correctional center may voluntarily annex such correctional center pursuant to the provisions of this section if the correctional center is along a road or highway within two miles from the existing boundaries of the city, town or village.

2. (1) When a verified petition, requesting annexation and signed by the owners of all fee interests of record in all tracts of real property located within the area proposed to be annexed, or a request for annexation signed under the authority of the governing body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed is presented to the governing body of the city, town or village, the governing body shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after the petition is received, and the hearing shall be held not less than seven days after notice of the hearing is published in a newspaper of general circulation qualified to publish legal matters and located within the boundary of the petitioned city, town or village. If no such newspaper exists within the boundary of such city, town or village, then the notice shall be published in the qualified newspaper nearest the petitioned city, town or village. For the purposes of this subdivision, the term "common-interest community" shall mean a condominium as said term is used in chapter 448, RSMo, or a common-interest community, a cooperative, or a planned community.

(a) A "common-interest community" shall be defined as real property with respect to which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in a declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years in a unit, including renewal options;

(b) A "cooperative" shall be defined as a common-interest community in which the real property is owned by an association, each of whose members is entitled by virtue of such member's ownership interest in the association to exclusive possession of a unit;

(c) A "planned community" a common-interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(2) At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed annexation. If, after holding the hearing, the governing body of the city, town or village determines that the annexation is reasonable and necessary to the proper development of the city, town or village, and the city, town or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, it may, subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance without further action.

(3) If a written objection to the proposed annexation is filed with the governing body of the city, town or village not later than fourteen days after the public hearing by at least five percent of the qualified voters of the city, town or village, or two qualified voters of the area sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015 and 71.860 to 71.920, shall be followed.

3. If no objection is filed, the city, town or village shall extend its limits by ordinance to include such territory, specifying with accuracy the new boundary lines to which the city's, town's or village's limits are extended. Upon duly enacting such annexation ordinance, the city, town or village shall cause three certified copies of the same to be filed with the **county assessor and the** clerk of the county wherein the city, town or village is located, and one certified copy to be filed with the election authority, if different from the clerk of the county which has jurisdiction over the area being annexed, whereupon the annexation shall be complete and final and thereafter all courts of this state shall take judicial notice of the limits of that city, town or village as so extended.

72.080. CITIES, VILLAGES AND TOWNS MAY BE INCORPORATED IN THEIR RESPECTIVE CLASSES — EXCEPTION, CERTAIN CITIES MUST COMPLY WITH BOUNDARY CHANGE LAW — EXCEPTION, CASS COUNTY — OWNERS OF MAJORITY OF CERTAIN CLASS OF PROPERTY MAY OBJECT TO INCORPORATION, CAUSE OF ACTION — DEFINITION — CONTENTS OF PETITION. — 1. **Notwithstanding any provision of law to the contrary, and as an alternative to, and not in lieu of, the procedure established in section 80.020, RSMo,** any unincorporated city,

town**, village,** or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city, **town, or village** of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities**, towns, or villages** of that class, in the following manner:

(1) Whenever a number of voters equal to fifteen percent of the **[**votes cast in the last gubernatorial election**]** **registered voters** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city **[**or**],** town**, village,** or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation of all real and personal property in the area and shall state facts showing that the proposed city**, town, or village, if such village has at least one hundred inhabitants residing in it,** shall have the ability to furnish normal municipal services within a reasonable time after its incorporation is to become effective and praying that the question be submitted to determine if it may be incorporated**[**. If the governing body shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated have signed such petition, the governing body shall submit the question to the voters**];**

(2) The governing body shall submit the question to the voters if it is satisfied the number of voters signing such petition is equal to fifteen percent of the registered voters in the area proposed to be incorporated.

As used in this section, "village" means any small group or assemblage of houses in an unincorporated area, being generally less than in a town or city, or any small group or assemblages of houses or buildings built for dwelling or for business, or both, in an unincorporated area, regardless of whether they are situated upon regularly laid out streets or alleys dedicated to public use, having no minimum number of registered voters in the area, and without regard to the existence of churches, parks, schools, or commercial establishments in that area or whether the proposed village is devoted to community purposes.

2. The **[**county**]** **governing body** may make changes in the petition to correct technical errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary changes occurring within six months prior to the time of filing the petition. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a city, town or village, although the governing body shall be satisfied as to the sufficiency of the signatures for the final proposed area. If a majority of the voters voting on the question vote for incorporation, the governing body shall declare such city, town**, village,** or other area incorporated, designating in such order the metes and bounds thereof, and thenceforth the inhabitants within such bounds shall be a body politic and incorporate, by the name and style of "the city of .....", **[**or**]** "the town of .....", **[**and**]** **"the village of .....".** The first officers of such city **[**or**],** town**, or village** shall be designated by the order of the governing body, who shall hold their offices until the next municipal election and until their successors shall be duly elected and qualified. **The city, town, or village shall have perpetual succession, unless disincorporated; may sue and be sued; may plead and be impleaded; may defend and be defended in all courts and in all actions, pleas, and matters whatsoever; may grant, purchase, hold, and receive property, real and personal, within such place and no other, burial grounds and cemeteries excepted; and may lease, sell, and dispose of such property for the benefit of the city, town, or village, and may have a common seal, and alter such seal at pleasure.** The county shall pay the costs of the election.

3. In any county with a charter form of government where fifty or more cities, towns and villages have been incorporated, an unincorporated city, town or other area of the state shall not be incorporated except as provided in sections 72.400 to 72.420.

4. Any unincorporated area with a private eighteen hole golf course community and with at least a one hundred acre lake located within any county of the first classification with more

than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may incorporate as a city of the class to which its population would entitle it pursuant to this chapter notwithstanding any proposed annexation of the unincorporated area by any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county. If any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county proposes annexation by ordinance or resolution of any unincorporated area as defined in this subsection, no such annexation shall become effective until and only after a majority of the qualified voters in the unincorporated area proposed to be incorporated fail to approve or oppose the proposed incorporation by a majority vote in the election described in subsection 2 of this section.

5. Prior to the election described in subsection 2 of this section, if the owner or owners of either the majority of the commercial or the majority of the agricultural classification of real property in the proposed area to be incorporated object to such incorporation, such owner or owners may file an action in the circuit court of the county in which such unincorporated area is situated, pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting that such incorporation be declared unreasonable by the court. As used in this subsection, a "majority of the commercial or agricultural classification" means a majority as determined by the assessed valuation of the tracts of real property in either classification to be determined by the assessments made according to chapter 137, RSMo. The petition in such action shall state facts showing that such incorporation including the real property owned by the petitioners is not reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the proper development of the city or town. If the circuit court finds that such inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition requesting the incorporation to be resubmitted excluding all or part of the property of the petitioners from the proposed incorporation.

77.020. CITY LIMITS MAY BE ALTERED, HOW. — The mayor and council of such city, with the consent of a majority of the legal voters of such city voting at an election thereof, shall have power to extend the limits of the city over territory adjacent thereto, and to diminish the limits of the city by excluding territory therefrom, and shall, in every case, have power, with the consent of the legal voters as aforesaid, to extend or diminish the city limits in such manner as in their judgment and discretion may redound to the benefit of the city**; provided, however, that no election or voter consent shall be required for voluntary annexations or transfers of jurisdiction under chapter 71, RSMo**.

78.610. CITY MANAGER — DUTIES. — The city manager **[**must be a resident of the city at the time of his appointment and**]** shall devote his **or her** entire time to the duties of his **or her** office. He shall be the administrative head of the government subject to the direction and supervision of the council and shall hold his office at the pleasure of the council, or may be employed for a term not to exceed one year. He shall receive an adequate salary to be fixed by the council which shall not be diminished during the service of any incumbent without his consent. **The council shall have the discretion to require the city manager to reside in the city as a condition of employment; except in counties with a charter form of government the city manager shall be a resident of the city at the time of his her appointment.** Before entering upon the duties of his **or her** office the city manager shall take the official oath required by law and shall execute a bond in favor of the city for the faithful performance of his **or her** duties and such sum shall be determined by the city council. It shall be his **or her** duty:

(1) To make all appointments to offices and positions provided for in section 78.600;

(2) To see that the laws and ordinances are enforced;

(3) To exercise control of all departments and divisions that may hereafter be created by the council;

(4) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchises are faithfully kept and performed, and upon information of any violation thereof to take such steps as will be necessary to stop or prevent the further violation of the same;

(5) To attend all meetings of the council with the privilege of taking part in the discussions but having no vote;

(6) To recommend to the council for adoption such measures as he **or she** may deem necessary or expedient;

(7) To prepare and submit the annual budget and to keep the city council fully advised as to the financial conditions and needs of the city and to perform such other duties as may be prescribed by these sections or be required of him **or her** by any ordinance or resolution of the council.

79.050. ELECTIVE OFFICERS, TERMS — CHIEF OF POLICE OR MARSHAL, QUALIFICATION — SAME PERSON MAY BE ELECTED COLLECTOR AND MARSHAL — BOARD OF ALDERMEN, FOUR-YEAR TERM PERMITTED, SUBMISSION TO VOTERS REQUIRED. — 1. The following officers shall be elected by the qualified voters of the city, and shall hold office for the term of two years, except as otherwise provided in this section, and until their successors are elected and qualified, to wit: mayor and board of aldermen. The board of aldermen may provide by ordinance, after the approval of a majority of the voters voting at an election at which the issue is submitted, for the appointment of a collector and for the appointment of a chief of police, who shall perform all duties required of the marshal by law, and any other police officers found by the board of aldermen to be necessary for the good government of the city. The marshal or chief of police shall be twenty-one years of age or older. If the board of aldermen does not provide for the appointment of a chief of police and collector as provided by this section, a city marshal, who shall be twenty-one years of age or older, and collector shall be elected, and the board of aldermen may provide by ordinance that the same person may be elected marshal and collector, at the same election, and hold both offices and the board of aldermen may provide by ordinance for the election of city assessor, city attorney, city clerk and street commissioner, who shall hold their respective offices for a term of two years and until their successors shall be elected or appointed and qualified, except that the term of the city marshal shall be four years.

2. The board of aldermen may provide by ordinance**, after the approval of a majority of the voters voting thereon at the next municipal election at which the issue is submitted,** that the term of **[**mayor and of**]** the collector shall be four years **and the term of the mayor shall be two, three, or four years**. Any person elected as **[**mayor or**]** collector after the passage of such an ordinance shall serve for a term of four years and until his successor is elected and qualified. **Any person elected as mayor after the passage of such ordinance shall serve for a term of two, three, or four years, as provided, and until his successor is elected and qualified.**

3. The board of aldermen may provide by ordinance that the term of the board of aldermen shall be four years. Such ordinance shall be submitted by the board to the voters of the city and shall take effect only upon the approval of a majority of the voters voting at an election at which the issue is submitted. Any person elected to the board of aldermen after the passage of such an ordinance shall serve for a term of four years and until his successor is elected and qualified.

79.495. DISINCORPORATION WITHOUT ELECTION ALLOWED, WHEN — DIMINISHING CITY LIMITS (CERTAIN FOURTH CLASS CITIES). — **1.** The county governing body of any county in which a city of the fourth class is located shall have the power to disincorporate such city upon petition of two-thirds of the voters of such city, without an election in such city, provided that the petition requests disincorporation without an election, and provided that the population of such city is less than one hundred.

2. Upon the application of any person or persons owning a tract of land containing five acres or more in a city of the fourth class with a population less than one hundred in

any county, the governing body of such county may, in its discretion, diminish the limits of such city by excluding any such tract of land from said corporate limits without an election in such city; provided that such application shall be accompanied by a petition asking for such change without an election and signed by a majority of the registered voters in such city and to the extent there are no such registered voters available in such city, then such petition shall be signed by the parties owning a majority of the land area to be excluded from such city limits. Thereafter, such tract of land so excluded shall not be deemed or held to be any part of such city.

87.006. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — PERSONS COVERED — DISABILITY FROM CANCER, PRESUMPTION SUFFERED IN LINE OF DUTIES, WHEN. — 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in **the** line of duty, unless the contrary be shown by competent evidence.

2. **Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.**

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts**,** and other governmental units.

89.010. APPLICABILITY OF LAW — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVISION, WHICH TO PREVAIL. — **1.** The provisions of sections 89.010 to 89.140 shall apply to all cities, towns and villages in this state.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

89.400. COMMISSION TO MAKE RECOMMENDATIONS TO COUNCIL ON PLATS, WHEN — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVISION, WHICH TO PREVAIL. — 1. When the planning commission of any municipality adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

92.500. SALES TAX FOR THE OPERATION OF PUBLIC SAFETY DEPARTMENTS — BALLOT SUBMISSION (ST. LOUIS). — 1. The governing body of any city not within a county may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-half of one percent, and shall be imposed solely for the purpose of providing revenues for the operation of public safety departments, including police and fire departments, which operations are defined to include, but not be limited to, compensation, pension programs, and health care for employees and pensioners of the public safety departments. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a sales tax at a rate of ..... (insert rate of percent) percent, solely for the purpose of providing revenues for the operation of public safety departments of the city, including hiring more police officers, prosecuting more criminals, nuisance crimes, and problem properties?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a

majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Public Safety Protection Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The director shall keep accurate records of the amounts in the fund, and such records shall be open to the inspection of the officers of such city and to the public. Not later than the tenth day of each month, the director shall distribute all moneys deposited in the fund during the preceding month to the city. Such funds shall be deposited with the treasurer of the city, and all expenditures of moneys from the fund shall be by an appropriation ordinance enacted by the governing body of the city.

4. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the city may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the city shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for the tax and penalties under this section, the limitation for bringing suit for the collection of the delinquent tax and penalties shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of providing revenues for the operation of public safety departments of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

94.660. TRANSPORTATION SALES TAX, BALLOT — EFFECTIVE, WHEN — APPROVAL REQUIRED IN CITY AND COUNTY — COLLECTION, FUND CREATED — USE OF FUNDS — ABOLITION OF TAX, PROCEDURE — REDUCTION OF RATE. — 1. The governing body of any city not within a county and any county of the first classification having a charter form of government with a population of over nine hundred thousand inhabitants may propose, by ordinance or order, a transportation sales tax of up to one percent for submission to the voters of that city or county at an authorized election date selected by the governing body.

2. Any sales tax approved under this section shall be imposed on the receipts from the sale at retail of all tangible personal property or taxable services within the city or county adopting the tax, if such property and services are subject to taxation by the state of Missouri under sections 144.010 to 144.525, RSMo.

3. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county/city of.....(county's or city's name) impose a county/city-wide sales tax of.....percent for the purpose of providing a source of funds for public transportation purposes?

[ ] YES [ ] NO

Except as provided in subsection 4 of this section, if a majority of the votes cast in that county or city not within a county on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall go into effect on the first day of the next calendar quarter beginning after its adoption and notice to the director of revenue, but no sooner than thirty days after such adoption and notice. If a majority of the votes cast in that county or city not within a county by the qualified voters voting are opposed to the proposal, then the additional sales tax shall not be imposed in that county or city not within a county unless and until the governing body of that county or city not within a county shall have submitted another proposal to authorize the local option transportation sales tax authorized in this section, and such proposal is approved by a majority of the qualified voters voting on it. In no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal.

4. No tax shall go into effect under this section in any city not within a county or any county of the first classification having a charter form of government with a population over nine hundred thousand inhabitants unless and until both such city and such county approve the tax.

5. The provisions of subsection 4 of this section requiring both the city and county to approve a transportation sales tax before a transportation sales tax may go into effect in either jurisdiction shall not apply to any transportation sales tax submitted to and approved by the voters in such city or such county on or after August 28, 2007.

[5.**]** **6.** All sales taxes collected by the director of revenue under this section on behalf of any city or county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds, shall be deposited with the state treasurer in a special trust fund, which is hereby created, to be known as the "County Public Transit Sales Tax Trust Fund". The sales taxes shall be collected as provided in section 32.087, RSMo. The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each city or county approving a sales tax under this section, and the records shall be open to inspection by officers of the city or county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or county which levied the tax, and such funds shall be deposited with the treasurer of each such city or county and all expenditures of funds arising from the county public transit sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or city not within a county.

[6.**]** **7.** The revenues derived from any transportation sales tax under this section shall be used only for the planning, development, acquisition, construction, maintenance and operation of public transit facilities and systems other than highways.

[7.**]** **8.** The director of revenue may authorize the state treasurer to make refunds from the amount in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities or counties. If any city or county abolishes the tax, the city or county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city or county, the director of revenue shall authorize the state treasurer to remit the balance in the account to the city or county and close the account of that city or county. The director of

revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

94.875. TOURISM TAX TRUST FUND ESTABLISHED, PURPOSE — TAXES TO BE DEPOSITED IN FUND — DISTRIBUTION — ELECTION REQUIRED TO IMPOSE TAX. — All taxes authorized and collected under sections 94.870 to 94.881 shall be deposited by the political subdivision in a special trust fund to be known as the "Tourism Tax Trust Fund". The moneys in such tourism tax trust fund shall not be commingled with any other funds of the political subdivision except as specifically provided in this section. The taxes collected shall be used, upon appropriation by the political subdivision, solely for the purpose of constructing, maintaining, or operating convention and tourism facilities, and at least twenty-five percent of such taxes collected shall be used for tourism marketing and promotional purposes; except that in any city with a population of less than **[**one**]** **seven** thousand five hundred inhabitants, forty percent of such taxes collected may be transferred to such city's general revenue fund and the remaining thirty-five percent may be used for city capital improvements, pursuant to voter approval. The moneys in the tourism tax trust fund of any city with a population of at least fifteen thousand located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants shall be used solely for tourism marketing and promotional purposes. The tax authorized by section 94.870 shall be in addition to any and all other sales taxes allowed by law, but no ordinance or order imposing a tax under section 94.870 shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision at a municipal or state general, primary, or special election a proposal to authorize the governing body of the political subdivision to impose such tax.

[94.875. TOURISM TAX TRUST FUND ESTABLISHED, PURPOSE — TAXES TO BE DEPOSITED IN FUND — DISTRIBUTION — ELECTION REQUIRED TO IMPOSE TAX. — All taxes authorized and collected under sections 94.870 to 94.881 shall be deposited by the political subdivision in a special trust fund to be known as the "Tourism Tax Trust Fund". The moneys in such tourism tax trust fund shall not be commingled with any other funds of the political subdivision except as specifically provided in this section. The taxes collected **[**shall**]** **may** be used, upon appropriation by the political subdivision, **[**solely**]** for the purpose of constructing, maintaining, or operating convention and tourism facilities**[**, and at least twenty-five percent of such taxes collected shall be used for tourism marketing and promotional purposes**]**; except that in any city with a population of less than **[**one**]** **seven** thousand five hundred inhabitants, forty percent of such taxes collected may be transferred to such city's general revenue fund and the remaining thirty-five percent may be used for city capital improvements, pursuant to voter approval. The moneys in the tourism tax trust fund of any city with a population of at least fifteen thousand located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants shall be used solely for tourism marketing and promotional purposes. The tax authorized by section 94.870 shall be in addition to any and all other sales taxes allowed by law, but no ordinance or order imposing a tax under section 94.870 shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision at a municipal or state general, primary, or special election a proposal to authorize the governing body of the political subdivision to impose such tax.**]**

94.950. HISTORICAL LOCATIONS AND MUSEUMS, SALES TAX AUTHORIZED FOR PROMOTION OF TOURISM — BALLOT LANGUAGE — REVENUE, USE OF — REPEAL OF TAX, BALLOT LANGUAGE (CITY OF JOPLIN). — **1. As used in this section, "museum" means museums operating or to be built in the city and that are registered with the United States Internal Revenue Service as a 501(c)(3) corporation, or an organization that is registered with the United States Internal Revenue Service as a 501(c)(3) corporation and that develops, promotes, or operates historical locations or preservation sites.**

2. The governing body of any home rule city with more than forty-five thousand five hundred but fewer than forty-five thousand nine hundred inhabitants and partially located in any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-half of one percent, and shall be imposed solely for the purpose of funding the operation, construction, or renovation of historical locations and museums to promote tourism. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a sales tax at a rate of ..... (insert rate of percent) percent, solely for the purpose of funding the operation, construction, or renovation of historical locations and museums to promote tourism?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Local Option Museum Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Not later than the tenth day of each month, the director shall distribute all moneys deposited in the trust fund during the preceding month to the city that levied the sales tax.

5. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the city may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the city shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be

recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

6. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for the tax and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalties shall be the same as that provided in sections 144.010 to 144.525, RSMo.

7. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding the operation, construction, or renovation of historical locations and museums to promote tourism?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

9. If the tax is repealed or terminated by any means, all funds remaining in the trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a

period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

99.847. NO NEW TIF PROJECTS AUTHORIZED FOR FLOOD PLAIN AREAS IN ST. CHARLES COUNTY, APPLICABILITY OF RESTRICTION. — 1. Notwithstanding the provisions of sections 99.800 to 99.865 to the contrary, no new tax increment financing project shall be authorized in any area which is within an area designated as flood plain by the Federal Emergency Management Agency and which is located in or partly within a county with a charter form of government with greater than two hundred fifty thousand inhabitants but fewer than three hundred thousand inhabitants**, unless the redevelopment area actually abuts a river or a major waterway and is substantially surrounded by contiguous properties with residential, industrial, or commercial zoning classifications**.

2. This subsection shall not apply to tax increment financing projects or districts approved prior to July 1, 2003, and shall allow the aforementioned tax increment financing projects to modify, amend or expand such projects including redevelopment project costs by not more than forty percent of such project original projected cost including redevelopment project costs as such projects including redevelopment project costs as such projects redevelopment projects including redevelopment project costs existed as of June 30, 2003, and shall allow the aforementioned tax increment financing district to modify, amend or expand such districts by not more than five percent as such districts existed as of June 30, 2003.

100.050. APPROVAL OF PLAN BY GOVERNING BODY OF MUNICIPALITY — INFORMATION REQUIRED — ADDITIONAL INFORMATION REQUIRED, WHEN — PAYMENTS IN LIEU OF TAXES, APPLIED HOW. — 1. Any municipality proposing to carry out a project for industrial development shall first, by majority vote of the governing body of the municipality, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

(1) A description of the project;

(2) An estimate of the cost of the project;

(3) A statement of the source of funds to be expended for the project;

(4) A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and

(5) Such other information necessary to meet the requirements of sections 100.010 to 100.200.

2. If the plan for the project is approved after August 28, 2003, and the project plan involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality, the project plan shall additionally include the following information:

(1) A statement identifying each school district, junior college district, county, or city affected by such project except property assessed by the state tax commission pursuant to chapters 151 and 153, RSMo;

(2) The most recent equalized assessed valuation of the real property and personal property included in the project, and an estimate as to the equalized assessed valuation of real property and personal property included in the project after development;

(3) An analysis of the costs and benefits of the project on each school district, junior college district, county, or city; and

(4) Identification of any payments in lieu of taxes expected to be made by any lessee of the project, and the disposition of any such payments by the municipality.

3. If the plan for the project is approved after August 28, 2003, any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of issuing the bonds and administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each school district, junior college district, county, or city in proportion to the current ad valorem tax levy of each school district, junior college district, county, or city; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants**, or any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants**, if the plan for the project is approved after May 15, 2005, such amounts shall be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity.

100.059. NOTICE OF PROPOSED PROJECT FOR INDUSTRIAL DEVELOPMENT, WHEN, CONTENTS — LIMITATION ON INDEBTEDNESS, INCLUSIONS — APPLICABILITY, LIMITATION. — 1. The governing body of any municipality proposing a project for industrial development which involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality shall, not less than twenty days before approving the plan for a project as required by section 100.050, provide notice of the proposed project to the county in which the municipality is located and any school district that is a school district, junior college district, county, or city; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants**, or any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants,** if the plan for the project is approved after May 15, 2005, such notice shall be provided to all affected taxing entities in the county. Such notice shall include the information required in section 100.050, shall state the date on which the governing body of the municipality will first consider approval of the plan, and shall invite such school districts, junior college districts, counties, or cities to submit comments to the governing body and the comments shall be fairly and duly considered.

2. Notwithstanding any other provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to section 26(b), article VI, Constitution of Missouri, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes.

3. The county assessor shall include the current assessed value of all property within the school district, junior college district, county, or city in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to section 26(b), article VI, Constitution of Missouri.

4. This section is applicable only if the plan for the project is approved after August 28, 2003.

108.170. BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS, FORMS — RATE — SALES PRICE — EXCEPTIONS — AGREEMENTS FOR PURCHASE OF COMMODITIES. — 1. Notwithstanding any other provisions of any law or charter to the contrary, any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other evidences of indebtedness payable solely from revenues derived from any revenue-producing facility, hereafter issued under any law of this state by any county, city, town, village, school district, educational

institution, drainage district, levee district, nursing home district, hospital district, library district, road district, fire protection district, water supply district, sewer district, housing authority, land clearance for redevelopment authority, special authority created under section 64.920, RSMo, authority created pursuant to the provisions of chapter 238, RSMo, or other municipality, political subdivision or district of this state shall be negotiable, may be issued in bearer form or registered form with or without coupons to evidence interest payable thereon, may be issued in any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other evidence of indebtedness, or in any law of this state or charter provision to the contrary notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any agency or corporate or other instrumentality of the state of Missouri or of the federal government at private sale at a rate not exceeding fourteen percent per annum.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the sale of bonds, notes, or other evidence of indebtedness issued by the state board of public buildings created under section 8.010, RSMo, the state board of fund commissioners created under section 33.300, RSMo, any port authority created under section 68.010, RSMo, the bi-state metropolitan development district authorized under section 70.370, RSMo, any special business district created under section 71.790, RSMo, any county, as defined in section 108.465, exercising the powers granted by sections 108.450 to 108.470, the industrial development board created under section 100.265, RSMo, any planned industrial expansion authority created under section 100.320, RSMo, the higher education loan authority created under section 173.360, RSMo, the Missouri housing development commission created under section 215.020, RSMo, the state environmental improvement and energy resources authority created under section 260.010, RSMo, the agricultural and small business development authority created under section 348.020, RSMo, any industrial development corporation created under section 349.035, RSMo, or the health and educational facilities authority created under section 360.020, RSMo, shall, with respect to the sales price, manner of sale and interest rate, be governed by the specific sections applicable to each of these entities.

3. Notwithstanding other provisions of this section or other law, the sale of bonds, notes or other evidence of indebtedness issued by any housing authority created under section 99.040, RSMo, may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear justification why the sale should be a private sale except that private activity bonds may be sold either at public or private sale.

4. Notwithstanding other provisions of this section or law, industrial development revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen percent per annum at the best price obtainable, not less than ninety-five percent of the par value thereof.

5. Notwithstanding other provisions in subsection 1 of this section to the contrary, revenue bonds issued for airport purposes by any constitutional charter city in this state which now has or may hereafter acquire a population of more than three hundred thousand but less than six hundred thousand inhabitants, according to the last federal decennial census, may bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value thereof.

6. For purposes of the interest rate limitations set forth in this section, the interest rate on bonds, notes or other evidence of indebtedness described in this section means the rate at which the present value of the debt service payments on an issue of bonds, notes or other evidence of indebtedness, discounted to the date of issuance, equals the original price at which such bonds,

notes or other evidence of indebtedness are sold by the issuer. Interest on bonds, notes or other evidence of indebtedness may be paid periodically at such times as shall be determined by the governing body of the issuer and may be compounded in accordance with section 408.080, RSMo.

7. Notwithstanding any provision of law or charter to the contrary:

(1) Any entity referenced in subsection 1 or 2 of this section and any other political corporation of the state which entity or political corporation has an annual operating budget for the current year exceeding twenty-five million dollars may, in connection with managing the cost to such entity or political corporation of purchasing fuel, electricity, natural gas, and other commodities used in the ordinary course of its lawful operations, enter into agreements providing for fixing the cost of such commodity, including without limitation agreements commonly referred to as hedges, futures, and options; provided that as of the date of such agreement, such entity or political corporation shall have complied with subdivision (3) of this subsection; and further provided that no eligible school, as defined in section 393.310, RSMo, shall be authorized by this subsection to enter into such agreements in connection with the purchase of natural gas while the tariffs required under section 393.310, RSMo, are in effect;

(2) Any entity referenced in subsection 1 or 2 of this section and any other political corporation of the state may, in connection with its bonds, notes, or other obligations then outstanding or to be issued and bearing interest at a fixed or variable rate, enter into agreements providing for payments based on levels of or changes in interest rates, including without limitation certain derivative agreements commonly referred to as interest rate swaps, hedges, caps, floors, and collars, provided that:

(a) As of the date of issuance of the bonds, notes, or other obligations to which such agreement relates, such entity or political corporation will have bonds, notes, or other obligations outstanding in an aggregate principal amount of at least fifty million dollars; and

(b) As of the date of such agreement, such entity's or political corporation's bonds, notes, or other obligations then outstanding or to be issued have received a stand-alone credit rating in one of the two highest categories, without regard to any gradation within such categories, from at least one nationally recognized credit rating agency, or such entity or political corporation has an issuer or general credit rating, in one of the two highest categories, without regard to any gradation within such categories, from at least one nationally recognized credit rating agency; and

(c) As of the date of such agreement, such entity or political corporation shall have complied with subdivision (3) of this subsection;

(3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this subsection, the governing body of the entity or political corporations entering into such agreements shall have adopted a written policy governing such agreements. Such policy shall be prepared by integrating the recommended practices published by the Government Finance Officers Association or comparable nationally recognized professional organization and shall provide guidance with respect to the permitted purposes, authorization process, mitigation of risk factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other factors in connection with such agreements determined to be relevant by the governing body of such entity or political corporation. Such entity or political corporation may enter into such agreements at such times and such agreements may contain such payment, security, default, remedy, and other terms and conditions as shall be consistent with the written policy adopted under this subdivision and as may be approved by the governing body of such entity or other obligated party, including any rating by any nationally recognized rating agency and any other criteria as may be appropriate;

(4) Nothing in this subsection shall be applied or interpreted to authorize any such entity or political corporation to enter into any such agreement for investment purposes or to diminish or alter the special or general power any such entity or political corporation may otherwise have under any other provisions of law including the special or general power of any interstate transportation authority.

110.130. DEPOSITARIES OF COUNTY FUNDS — HOW SELECTED. — 1. Subject to the provisions of section 110.030 the county commission of each county in this state**[**, at the April term, in April 1997**]** **on or before the first Monday in July in the year in which a bid is requested** and every fourth year thereafter, with an option to rebid in each odd-numbered year, shall receive proposals from banking corporations or associations at the county seat of the county which desire to be selected as the depositaries of the funds of the county. **[**For the purpose of letting the funds the county commission shall, by order of record, divide the funds into not less than two nor more than twelve equal parts, except that in counties of the first classification not having a charter form of government, funds shall be divided in not less than two nor more than twenty equal parts, and the bids provided for in sections 110.140 and 110.150 may be for one or more of the parts.**]**

2. Notice that such bids will be received shall be published by the clerk of the commission twenty days before the commencement of the term in some newspaper published in the county, and if no newspaper is published therein, then the notice shall be published at the door of the courthouse of the county. In counties operating under the township organization law of this state, township boards shall exercise the same powers and privileges with reference to township funds as are conferred in sections 110.130 to 110.260 upon county commissions with reference to county funds at the same time and manner, except that township funds shall not be divided but let as an entirety; and except, also, that in all cases of the letting of township funds, three notices, posted in three public places by the township clerk, will be a sufficient notice of such letting.

110.140. PROCEDURE FOR BIDDERS — DISCLOSURE OF BIDS A MISDEMEANOR. — 1. Any banking corporation or association in the county desiring to bid shall deliver to the clerk of the commission, on or before the first **[**day of the term**]** **Monday of July** at which the selection of depositaries is to be made, a sealed proposal, stating the rate of interest that the banking corporation, or association offers to pay on the funds of the county for the term of two or four years next ensuing the date of the bid, or, if the selection is made for a less term than two or four years, as provided in sections 110.180 and 110.190, then for the time between the date of the bid and the next regular time for the selection of depositaries as fixed by section 110.130**[**, and stating also the number of parts of the funds for which the banking corporation or association desires to bid**]**.

2. Each bid shall be accompanied by a certified check for not less than the proportion of one and one-half percent of the county revenue of the preceding year as the sum of the part or parts of funds bid for bears to the whole number of the parts, as a guaranty of good faith on the part of the bidder, that if his **or her** bid should be the highest he **or she** will provide the security required by section 110.010. Upon his **or her** failure to give the security required by law, the amount of the certified check shall go to the county as liquidated damages, and the commission may order the county clerk to readvertise for bids.

3. It shall be a misdemeanor, and punishable as such, for the clerk of the commission, or any deputy of the clerk, to directly or indirectly disclose the amount of any bid before the selection of depositaries.

110.150. PUBLIC OPENING OF BIDS — COMPUTATION AND PAYMENT OF INTEREST — REJECTED BIDS. — 1. The county commission, at noon on **or before** the first **[**day of the April term in 1997**]** **Monday of July for the year in which a bid is requested** and every second or fourth year thereafter, shall publicly open the bids, and cause each bid to be entered upon the

records of the commission, and shall select as the depositaries of all the public funds of every kind and description going into the hands of the county treasurer, and also all the public funds of every kind and description going into the hands of the ex officio collector in counties under township organization, the deposit of which is not otherwise provided for by law, the banking corporations or associations whose bids respectively made for one or more of the parts of the funds shall in the aggregate constitute the largest offer for the payment of interest per annum for the funds; but the commission may reject any and all bids.

2. The interest upon each fund shall be computed upon the daily balances with the depositary, and shall be payable to the county treasurer monthly, who shall place the interest **[**on the school funds to the credit of those funds respectively, the interest on all county hospital funds and hospital district funds to the credit of those funds, the interest on county health center funds to the credit of those funds, the interest on county library funds to the credit of those funds and the interest on all other funds to the credit of the county general fund**]** to the credit of each individual fund held by the county treasurer; provided, that the interest on any funds collected by the collector of any county of the first classification not having a charter form of government on behalf of any political subdivision or special district shall be credited to such political subdivision or special district.

3. The county clerk shall, in opening the bids, return the certified checks deposited with him to the banks whose bids are rejected, and on approval of the security of the successful bidders return the certified checks to the banks whose bids are accepted.

137.055. COUNTY COMMISSION TO FIX RATE OF TAX, WHEN — PUBLIC HEARING TO BE HELD, WHEN, NOTICE, EFFECT. — 1. After the assessor's book of each county, except in the city of St. Louis, shall be corrected and adjusted according to law, but not later than September twentieth, of each year, the county governing body shall ascertain the sum necessary to be raised for county purposes, and fix the rate of taxes on the several subjects of taxation so as to raise the required sum, and the same to be entered in the proper columns in the tax book.

2. Prior to fixing the rate of taxes, as provided in this section, the county governing body shall hold a public hearing on the proposed rate of taxes. A notice stating the time and place for the hearing shall be published in at least one newspaper qualified under the laws of Missouri of general circulation in the county at least seven days prior to the date of the hearing. The notice shall include the aggregate assessed valuation by category of real, total personal and other tangible property in the county as entered in the tax book for the fiscal year for which the tax is to be levied, the aggregate assessed valuation by category of real, total personal and other tangible property in the county for the preceding taxable year, the required sums to be raised from the property tax for each purpose for which the county levies taxes as approved in the budget adopted under chapter 50, RSMo, **[**and**]** the proposed rate of taxes which will produce substantially the same revenues as required by the budget**, and the increase in tax revenue realized due to an increase in assessed value as a result of new construction and improvement, and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted**. Failure of any taxpayer to appear at said hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this subsection absolves county governing bodies of responsibilities under section 137.073 nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection

3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following **[**percents**]** **percentages** of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. **[**The provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective January 1, 2003, for any taxing jurisdiction within a county with a charter form of government with greater than one million inhabitants, and the provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective October 1, 2004, for all taxing jurisdictions in this state.**]** Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by this act, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred

inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

139.055. TAX PAID BY CREDIT CARD OR ELECTRONIC TRANSFER — FEE. — Any county **or public water supply district** may accept payment by credit card or electronic transfers of funds for any tax**, fee,** or license payable to the county **or district**. A county collector **or district** shall not be required to accept payment by credit card if the credit card bank, processor, or issuer would charge the county **or district** a fee for such payment. However, a county **or district** may accept payment by credit card and charge the person making such payment by credit card a fee equal to the fee charged the county **or district** by the credit card bank, processor, issuer for such payment. A county **or district** may accept payment by electronic transfer of funds in payment of any tax**, fee,** or license and charge the person making such payment a fee equal to the fee charged the county **or district** by the bank, processor, or issuer of such electronic payment.

141.150. FEES ALLOWED (FIRST CLASS COUNTIES). — Fees shall be allowed for services rendered under the provisions of sections 141.010 to 141.160 as follows:

(1) To the collector **[**two percent on all sums collected; such percent**] the fee authorized by section 52.290, RSMo,** to be taxed as costs and collected from the party redeeming, or from the proceeds of sale, as herein provided;

(2) To the collector for making the back tax book, twenty-five cents per tract, to be taxed as costs and collected from the party redeeming such tract;

(3) To the collector, attorney's fees in the sum of five percent of the amount of taxes actually collected and paid into the treasury after judgment is obtained or if such taxes are paid before judgment, but after suit is instituted, two percent on all sums collected and paid into the treasury; and an additional sum in the amount of two dollars for each suit instituted pursuant to the provisions of sections 141.010 to 141.160, where publication is not necessary, and in the amount of five dollars for each suit where publication is necessary, which sums shall be taxed and collected as other costs;

(4) To the circuit clerk, associate circuit judge, sheriff and printer, such fees as are allowed by law for like services in civil cases, which shall be taxed as costs in the case; provided, that in no case shall the state or county be liable for any such costs, nor shall the county commission or state auditor or commissioner of administration allow any claim for any costs incurred by the provisions of this law; provided further, that all fees collected shall be accounted for and all fees collected, except those allowed the printer, shall be paid to the county treasurer at such times and in the manner as otherwise provided by law.

141.640. COLLECTOR'S COMMISSION (FIRST CLASS CHARTER COUNTIES). — Upon the filing of any delinquent tax bill or bills or any list thereof with the collector, as provided in sections 141.210 to 141.810, there shall be imposed and charged on each such tax bill **[**a collector's commission of two percent of the principal amount of such delinquent tax bill**] the fee authorized under section 52.290, RSMo,** as an additional penalty and part of the lien thereof to be paid to the collector on all such tax bills collected by him, which **[**two percent penalty**] fee** shall be collected from the party redeeming the parcel of real estate upon which the tax bill is a lien, and shall be accounted for by the collector as other similar penalties are collected by him on delinquent land taxes upon which suit has not been filed, or, if filed, was not filed under the provisions of sections 141.210 to 141.810.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the

computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, **[**solely**]** in the transportation of persons or property **[**in interstate commerce**]**;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon,

and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees;

except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo; **[**and**]**

(39) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event**;**

(40) All purchases by a sports complex authority created under section 64.920, RSMo.

144.062. CONSTRUCTION MATERIALS, EXEMPTION ALLOWED, WHEN — EXEMPTION CERTIFICATE, FORM, CONTENT, PURPOSE — EFFECT — ENTITY HAVING UNAUTHORIZED EXEMPTION CERTIFICATE, EFFECT. — 1. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for:

(1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

(2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; or

(3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or

(4) Any private not-for-profit elementary or secondary school exempt from taxation under subdivision (22) of subsection 2 of section 144.030**[**,**]**; **or**

(5) Any authority exempt from taxation under subdivision (40) of subsection 2 of section 144.030; or

(6) After June 30, 2007, the department of transportation or the state highways and transportation commission; hereinafter collectively referred to as exempt entities, such exemptions shall be allowed for such purchases if the purchases are related to the entities' exempt functions and activities. In addition, the sales shall not be rendered nonexempt nor shall any material supplier or contractor be obligated to pay, collect or remit sales tax with respect to such purchases made by or on behalf of an exempt entity due to such purchases being billed to or paid for by a contractor or the exempt entity contracting with any entity to render any services in relation to such purchases, including but not limited to selection of materials, ordering, pickup, delivery, approval on delivery, taking of delivery, transportation, storage, assumption of risk of loss to materials or providing warranties on materials as specified by contract, use of materials or other purchases for construction of the building or other facility, providing labor, management services, administrative services, design or technical services or advice to the exempt entity, whether or not the contractor or other entity exercises dominion or control in any other manner over the materials in conjunction with services or labor provided to the exempt entity.

2. When any exempt entity contracts for the purpose of constructing, repairing or remodeling facilities, and purchases of tangible personal property and materials to be

incorporated into or consumed in the construction of the project are to be made on a tax-exempt basis, such entity shall furnish to the contractor an exemption certificate authorizing such purchases for the construction, repair or remodeling project. The form and content of such project exemption certificate shall be approved by the director of revenue. The project exemption certificate shall include but not be limited to:

(1) The exempt entity's name, address, Missouri tax identification number and signature of authorized representative;

(2) The project location, description, and unique identification number;

(3) The date the contract is entered into, which is the earliest date materials may be purchased for the project on a tax-exempt basis;

(4) The estimated project completion date; and

(5) The certificate expiration date.

Such certificate is renewable for a given project at the option of the exempt entity, only for the purpose of revising the certificate expiration date as necessary to complete the project.

3. The contractor shall furnish the certificate prescribed in subsection 2 of this section to all subcontractors, and any contractor purchasing materials shall present such certificate to all material suppliers as authorization to purchase, on behalf of the exempt entity, all tangible personal property and materials to be incorporated into or consumed in the construction of that project and no other on a tax-exempt basis. Such suppliers shall execute to the purchasing contractor invoices bearing the name of the exempt entity and the project identification number. Nothing in this section shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in constructing, repairing or remodeling facilities for the exempt entity. All invoices for all personal property and materials purchased under a project exemption certificate shall be retained by the purchasing contractor for a period of five years and shall be subject to audit by the director of revenue.

4. Any excess resalable tangible personal property or materials which were purchased for the project by a contractor under a project exemption certificate but which were not incorporated into or consumed in the construction of the project shall either be returned to the supplier for credit or the appropriate sales or use tax on such excess property or materials shall be reported on a return and paid by such contractor not later than the due date of the contractor's Missouri sales or use tax return following the month in which it was determined that the materials were not to be used in the project.

5. No contractor or material supplier shall, upon audit, be required to pay tax on tangible personal property and materials incorporated into or consumed in the construction of the project, due to the failure of the exempt entity to revise the certificate expiration date as necessary to complete any work required by the contract. If it is determined that tax is owed on such property and materials due to the failure of the exempt entity to revise such certificate expiration date, the exempt entity shall be liable for the tax owed.

6. If an entity issues exemption certificates for the purchase of tangible personal property and materials which are incorporated into or consumed in the construction of its project and such entity is found not to have had the authority granted by this section to issue such exemption certificates, then such entity shall be liable for the tax owed on such personal property and materials. In addition, if an entity which does have the authority granted by this section to issue exemption certificates issues such certificates for the purchase of tangible personal property and materials which are incorporated into or consumed in the construction of a project, or part of a project, which is found not to be related to such entity's exempt functions and activities, then such entity shall be liable for the tax owed on such personal property and materials.

144.757. LOCAL USE TAX TO FUND COMMUNITY COMEBACK PROGRAM — RATE OF TAX — ST. LOUIS COUNTY — BALLOT OF SUBMISSION — NOTICE TO DIRECTOR OF REVENUE — REPEAL OR REDUCTION OF LOCAL SALES TAX, EFFECT ON LOCAL USE TAX. — 1. Any county or municipality, except municipalities within a county having a charter form of government with

a population in excess of nine hundred thousand, may, by a majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined in section 32.085, RSMo, at a rate equal to the rate of the local sales tax in effect in such county or municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to 144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890, RSMo. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890, RSMo, for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the ..... (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, currently ..... (insert percent), provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(2) (a) The ballot of submission in a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of **[**economic development**]** **enhancing county and municipal public safety, parks, and job creation** and enhancing local government services, shall the county be authorized to collect a local use tax equal to the total of the existing county sales tax rate of (insert tax rate), provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? Fifty percent of the revenue shall be used **[**for economic development, including retention, creation, and attraction of better-paying jobs**]**, **by the county throughout the county for improving and enhancing public safety, park improvements, and job creation**, and fifty percent shall be used for enhancing local government services. The county shall be required to make available to the public an audited comprehensive financial report detailing the management and use of **[**economic development**]** **the countywide portion of the** funds each year.

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(b) The ballot of submission in a municipality within a county having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised

by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(3) The ballot of submission in any city not within a county shall contain substantially the following language:

Shall the ..... (city name) impose a local use tax at the same rate as the local sales tax, currently at a rate of ..... (insert percent) which includes the capital improvements sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761, the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form or subject of the use tax or the manner in which it is collected.

144.759. COLLECTION OF ADDITIONAL LOCAL USE TAX FOR ECONOMIC DEVELOPMENT — DEPOSIT IN LOCAL USE TAX TRUST FUND, NOT PART OF STATE REVENUE — DISTRIBUTION TO COUNTIES AND MUNICIPALITIES — REFUNDS — NOTIFICATION TO DIRECTOR OF REVENUE ON ABOLISHMENT OF TAX. — 1. All local use taxes collected by the director of revenue pursuant to sections 144.757 to 144.761 on behalf of any county or municipality, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited with the state treasurer in a local use tax trust fund, which fund shall be separate and apart from the local sales tax trust funds. The moneys in such local use tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The

director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county or municipality imposing a local use tax, and the records shall be open to the inspection of officers of the county or municipality and to the public. No later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month, except as provided in subsection 2 of this section, to the county or municipality treasurer, or such other officer as may be designated by the county or municipality ordinance or order, of each county or municipality imposing the tax authorized by sections 144.757 to 144.761, the sum due the county or municipality as certified by the director of revenue.

2. The director of revenue shall distribute all moneys which would be due any county having a charter form of government and having a population of nine hundred thousand or more to the county treasurer or such other officer as may be designated by county ordinance, who shall distribute such moneys as follows: the portion of the use tax imposed by the county which equals one-half the rate of sales tax in effect for such county shall be disbursed to the county treasurer for expenditure **[**for economic development purposes, as defined in this section**]** **throughout the county for public safety, parks, and job creation**, subject to any qualifications and regulations adopted by ordinance of the county. Such ordinance shall require an audited comprehensive financial report detailing the management and use of **[**economic development**]** **such** funds each year. Such ordinance shall also require that the county and the municipal league of the county jointly prepare **[**an economic development**]** **a** strategy to guide expenditures of funds and conduct an annual review of the strategy. The treasurer or such other officer as may be designated by county ordinance shall distribute one-third of the balance to the county and to each city, town and village in group B according to section 66.620, RSMo, as modified by this section, a portion of the two-thirds remainder of such balance equal to the percentage ratio that the population of each such city, town or village bears to the total population of all such group B cities, towns and villages. For the purposes of this subsection, population shall be determined by the last federal decennial census or the latest census that determines the total population of the county and all political subdivisions therein. For the purposes of this subsection, each city, town or village in group A according to section 66.620, RSMo, but whose per capita sales tax receipts during the preceding calendar year pursuant to sections 66.600 to 66.630, RSMo, were less than the per capita countywide average of all sales tax receipts during the preceding calendar year, shall be treated as a group B city, town or village until the per capita amount distributed to such city, town or village equals the difference between the per capita sales tax receipts during the preceding calendar year and the per capita countywide average of all sales tax receipts during the preceding calendar year.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties or municipalities. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

4. Except as modified in sections 144.757 to 144.761, all provisions of sections 32.085 and 32.087, RSMo, applicable to the local sales tax, except for subsection 12 of section 32.087, RSMo, and all provisions of sections 144.600 to 144.745 shall apply to the tax imposed pursuant

to sections 144.757 to 144.761, and the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax.

[5. As used in this section, "economic development" means:

(1) Expenditures for infrastructure and sites for business development or for public infrastructure projects;

(2) Purchase, assembly, clearance, demolition, environmental remediation, planning, redesign, reconstruction, rehabilitation, construction, modification or expansion of land, structures and facilities, public or private, either in connection with a reinvestment project in areas with underused, derelict, economically challenged, or environmentally troubled sites, or in connection with business attraction, retention, creation, or expansion;

(3) Expenditures related to business district activities such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches, and other public improvements;

(4) Expenditures for the provision of workforce training and educational support in connection with job creation, retention, attraction, and expansion;

(5) Development and operation of business incubator facilities, and related entrepreneurship support programs;

(6) Capitalization or guarantee of small business loan or equity funds;

(7) Expenditures for business development activities including attraction, creation, retention, and expansion; and

(8) Related administration expenses of economic and community development programs, provided that such expenses shall not exceed five percent of annual revenues.**]**

162.431. BOUNDARY CHANGE — PROCEDURE — ARBITRATION — COMPENSATION OF ARBITRATORS — RESUBMISSION OF CHANGES RESTRICTED. — 1. When it is necessary to change the boundary lines between seven-director school districts, in each district affected, ten percent of the voters by number of those voting for school board members in the last annual school election in each district may petition the district boards of education in the districts affected, regardless of county lines, for a change in boundaries. The question shall be submitted at the next **[**general municipal**]** election**, as referenced in section 115.123, RSMo**.

2. The voters shall decide the question by a majority vote of those who vote upon the question. If assent to the change is given by each of the various districts voting, each voting separately, the boundaries are changed from that date.

3. If one of the districts votes against the change and the other votes for the change, the matter may be appealed to the state board of education, in writing, within fifteen days of the submission of the question by either one of the districts affected, or in the above event by a majority of the signers of the petition requesting a vote on the proposal. At the first meeting of the state board following the appeal, a board of arbitration composed of three members, none of whom shall be a resident of any district affected, shall be appointed. In determining whether it is necessary to change the boundary line between seven-director districts, the board of arbitration shall base its decision upon the following:

(1) The presence of school-aged children in the affected area;

(2) The presence of actual educational harm to school-aged children, either due to a significant difference in the time involved in transporting students or educational deficiencies in the district which would have its boundary adversely affected; and

(3) The presence of an educational necessity, not of a commercial benefit to landowners or to the district benefitting for the proposed boundary adjustment.

4. Within twenty days after notification of appointment, the board of arbitration shall meet and consider the necessity for the proposed changes and shall decide whether the boundaries shall be changed as requested in the petition or be left unchanged, which decision shall be final. The decision by the board of arbitration shall be rendered not more than thirty days after the matter is referred to the board. The chairman of the board of arbitration shall transmit the

decision to the secretary of each district affected who shall enter the same upon the records of his district and the boundaries shall thereafter be in accordance with the decision of the board of arbitration. The members of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the appeal is made by the district taking the appeal or by the petitioners should they institute the appeal.

5. If the board of arbitration decides that the boundaries shall be left unchanged, no new petition for the same, or substantially the same, boundary change between the same districts shall be filed until after the expiration of two years from the date of the municipal election at which the question was submitted to the voters of the districts.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such

districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines **[**or less any decrease in the amount received for school purposes from fines in any school district located entirely within any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that creates a county municipal court after January 1, 2006**]**. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes

of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.016. DESIGNATION OF SCHOOL DISTRICT NUMBER (MONROE CITY). — Notwithstanding the provisions of section 163.011, for any school district located in more than one county and whose headquarters are located within a city of the fourth classification with more than two thousand five hundred but fewer than two thousand six hundred inhabitants and located in more than one county, the county signified in the school district number shall be the county in the district with the highest dollar value modifier.

163.038. DSITRICTS WITH A COUNTY MUNICIPAL COURT, PAYMENTS TO BE MADE. — Notwithstanding any provision of law to the contrary, any school district that is located at least partially in any county that creates a county municipal court or is otherwise eligible to prosecute county ordinance violations under section 66.010, RSMo, et seq., after January 1, 2006, shall be entitled to a payment amount from the department of elementary and secondary education in addition to all other payments required under this chapter equal to the decrease, if any, in the amount of revenue a district receives from fines in the current year from the revenue the district received from fines in fiscal year 2005.

182.015. COUNTY COMMISSION MAY ESTABLISH LIBRARY DISTRICT WITHOUT VOTE, WHEN — TAX LEVY, SUBMITTED HOW — DISSOLUTION OF LIBRARY DISTRICT — CHANGE OF BOUNDARIES, PROCEDURE. — 1. In addition to the provisions of section 182.010, the county commission of any county of the state may establish by its order a county library district without a petition or submission to the voters as provided in section 182.010, provided such district conforms otherwise to the provisions of that section and does not include any part of a regional library system established pursuant to other provisions of this chapter. In the event a district is so established, the county commission shall propose an annual rate of taxation within the limitations prescribed by section 182.010, which proposal shall be submitted to a vote of the people in the same manner as though the district were formed under the provisions of that section.

2. Where the county library district of any county is not operating a library within such county, the county commission may divide the county library district into subdistricts. In the event the subdistricts are established, the county commission shall propose an annual rate of taxation, which proposal shall be submitted to a vote of the people residing in the subdistrict in the same manner as provided for in section 182.010. If a majority of the votes cast on the question are for the tax as submitted, the tax shall be levied and collected on property within the subdistrict in the same manner as other county library taxes are levied and collected pursuant to section 182.020. Such funds shall be used to **[**operate a branch library**]** **provide library services** in the subdistrict of the county library district.

3. Where a tax has not been approved by the voters within a five-year period from the establishment of a library district, such library district shall be dissolved.

4. (1) The boundaries of any subdistrict established under this section in any county may be expanded as provided in this subsection. Whenever not less than ten percent of registered voters residing in an area in such county adjacent to an existing subdistrict desire to be annexed into the subdistrict, such registered voters shall file a petition with the governing body of the county requesting, subject to the official approval of the existing county library board, the expansion of the subdistrict. The petition shall contain the following information:

(a) The name and residence of each petitioner; and

(b) A specific description of the proposed subdistrict boundaries, including a map illustrating the boundaries.

(2) Upon the filing of a petition under this subsection, subject to the official approval of the existing county library board, the governing body of the county may, by resolution,

approve the expansion of the subdistrict. Any resolution to expand such subdistrict adopted by the governing body of the county shall contain the following information:

(a) A description of the proposed boundaries of the subdistrict;

(b) The time and place of a hearing to be held to consider expansion of the subdistrict; and

(c) The rate of tax to be imposed in the area of expansion and voted on within the proposed subdistrict, if any.

Following the hearing required in this subsection, if the existing library board approves the expansion, and if the governing body of the county determines that expansion is in the best interest of the current subdistrict, then the governing body may, by order or ordinance, provide for the expansion of the subdistrict and for any imposition of the existing subdistrict tax rate within the area of expansion. The order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the proposed subdistrict, at a state general, primary, or special election, a proposal to authorize the governing body of the county to expand the boundaries of the subdistrict and, if necessary, to impose the existing subdistrict tax rate within the area of expansion. If a majority of the votes cast on the question by the qualified voters voting thereon and residing in the existing subdistrict and a majority of the votes cast on the question by the qualified voters voting thereon and residing in the area proposed to be annexed into the subdistrict are in favor of the question, then the expansion of the subdistrict and the imposition of the tax within the area of expansion shall become effective on the first day of the second calendar quarter immediately following the vote. If a majority of the votes cast on the question by the qualified voters voting thereon in either the existing subdistrict or in the area proposed to be annexed into the subdistrict are opposed to the question, then the expansion of the subdistrict and the imposition of the tax shall not become effective unless and until the question is resubmitted under this subsection to the qualified voters and such question is approved by the required majorities of the qualified voters voting on the question under this subsection.

(3) The governing body of any county that has expanded subdistrict boundaries or imposed a tax increase authorized in this subsection may submit the question of repeal of the expansion of boundaries and the accompanying imposition of the tax in the area of expansion to the voters of the subdistrict on any date available for elections for the county. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved.

If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the expansion of boundaries and the imposition of the tax as authorized in this subsection shall remain effective until the question is resubmitted under this subsection to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

(4) Whenever the governing body of any county that has expanded subdistrict boundaries or imposed a tax as authorized in this subsection receives a petition, signed by ten percent of the registered voters of the library subdistrict, calling for an election to repeal the expansion of boundaries and the accompanying imposition of the tax in the area of expansion under this subsection, the governing body shall submit to the voters of the subdistrict a proposal to repeal the expansion and the accompanying imposition of the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the expansion of boundaries and the imposition of the tax as authorized in this subsection shall remain effective until the question is resubmitted under this subsection to the qualified

voters and the repeal is approved by a majority of the qualified voters voting on the question.

190.052. BOARD MEMBER MUST LIVE IN HIS DISTRICT — VACANCIES, HOW FILLED. — Any member of the board of directors who moves **[**his residence**]** **residency** from the district from which **[**he**]** **the member** was elected, shall be disqualified as a member of the board. If one or two vacancies occur in the membership of the board as a result of death, resignation, or disqualification, the remaining members shall appoint one or two qualified persons, as provided in section 190.050, to fill the vacancies until the **[**next annual election of the members of the board**]** **end of the unexpired term**. Such appointment shall be made with the consent of a majority of the remaining members of the board. If the board is unable to agree in filling a vacancy within sixty days or if there are more than two vacancies at any one time, the county commission, upon notice from the board of failure to agree in filling the vacancies, shall within ten days fill them by appointment of qualified persons, as provided in section 190.050, and shall notify the persons in writing of their appointment. The persons appointed shall serve for the unexpired term.

190.053. EDUCATIONAL TRAINING REQUIRED FOR BOARD OF DIRECTORS. — 1. All members of the board of directors of an ambulance district first elected on or after January 1, 2008, shall attend and complete an educational seminar or conference or other suitable training on the role and duties of a board member of an ambulance district. The training required under this section shall be offered by a statewide association organized for the benefit of ambulance districts or be approved by the state advisory council on emergency medical services. Such training shall include, at a minimum:

(1) Information relating to the roles and duties of an ambulance district director;

(2) A review of all state statutes and regulations relevant to ambulance districts;

(3) State ethics laws;

(4) State sunshine laws, chapter 610, RSMo;

(5) Financial and fiduciary responsibility;

(6) State laws relating to the setting of tax rates; and

(7) State laws relating to revenue limitations.

2. If any ambulance district board member fails to attend a training session within twelve months after taking office, the board member shall not be compensated for attendance at meetings thereafter until the board member has completed such training session.

190.305. EMERGENCY TELEPHONE SERVICE MAY BE PROVIDED — TAX LEVY AUTHORIZED — GOVERNING BODY OF CHRISTIAN AND SCOTT COUNTIES MAY CONTRACT FOR SERVICES — TIME LIMITATION ON TAX — RATE — COLLECTION. — 1. In addition to its other powers for the protection of the public health, a governing body may provide for the operation of an emergency telephone service and may pay for it by levying an emergency telephone tax for such service in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. The governing body may do such other acts as are expedient for the protection and preservation of the public health and are necessary for the operation of the emergency telephone system. The governing body is hereby authorized to levy the tax in an amount not to exceed fifteen percent of the tariff local service rate, as defined in section 190.300, or seventy-five cents per access line per month, whichever is greater, except as provided in sections 190.325 to 190.329, in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. In any county of the third classification with a population of at least thirty-two thousand but not greater than forty thousand that borders a county of the first classification, a governing body of a third or fourth class city may, with the consent of the county commission, contract for service with a public agency to provide services within the public agency's jurisdiction when such city is located wholly within

the jurisdiction of the public agency. Consent shall be demonstrated by the county commission authorizing an election within the public agency's jurisdiction pursuant to section 190.320. Any contract between governing bodies and public agencies in existence on August 28, 1996, that meets such criteria prior to August 28, 1996, shall be recognized if the county commission authorized the election for emergency telephone service and a vote was held as provided in section 190.320. The governing body shall provide for a board pursuant to sections 190.327 and 190.328. **The board of any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants shall provide services to a city located in more than one county only after making an agreement or contracting with the city for such services, provided that any agreement or contract in effect, as of January 1, 2006, shall continue until such time as a successor agreement or contract is entered into by the board and city and such agreement or contract is to provide services for a period of three or more years.**

2. The tax shall be utilized to pay for the operation of emergency telephone service and the operational costs associated with the answering and dispatching of emergency calls as deemed appropriate by the governing body, and may be levied at any time subsequent to execution of a contract with the provider of such service at the discretion of the governing body, but collection of such tax shall not begin prior to twenty-seven months before operation of the emergency telephone service and dispatch center.

3. Such tax shall be levied only upon the tariff rate. No tax shall be imposed upon more than one hundred exchange access facilities or their equivalent per person per location.

4. Every billed service user is liable for the tax until it has been paid to the service supplier.

5. The duty to collect the tax from a service user shall commence at such time as specified by the governing body in accordance with the provisions of sections 190.300 to 190.320. The tax required to be collected by the service supplier shall be added to and may be stated separately in the billings to the service user.

6. Nothing in this section imposes any obligation upon a service supplier to take any legal action to enforce the collection of the tax imposed by this section. The service supplier shall provide the governing body with a list of amounts uncollected along with the names and addresses of the service users refusing to pay the tax imposed by this section, if any.

7. The tax imposed by this section shall be collected insofar as practicable at the same time as, and along with, the charges for the tariff rate in accordance with the regular billing practice of the service supplier. The tariff rates determined by or stated on the billing of the service supplier are presumed to be correct if such charges were made in accordance with the service supplier's business practices. The presumption may be rebutted by evidence which establishes that an incorrect tariff rate was charged.

204.600. REORGANIZATION PERMITTED, WHEN. — Any common sewer district organized and existing under sections 204.250 to 204.270, and any sewer district organized and existing under chapter 249, RSMo, may be converted to a reorganized common sewer district under the provisions of sections 204.600 to 204.640. In addition, a reorganized common sewer district may be established as provided in sections 204.600 to 204.640. Once established, a reorganized common sewer district shall have all powers and authority of and applicable to a common sewer district organized and existing under sections 204.250 to 204.270 and applicable to a sewer district established under chapter 249, RSMo, which are not inconsistent or in conflict with sections 204.600 to 204.640, provided that no domestic water services shall be provided within the boundaries of an existing public water supply district or within the certificated area of a water corporation as defined in section 386.020, RSMo.

204.602. PROCEEDINGS FOR REORGANIZATION, REQUIREMENTS. — 1. Proceedings for the new formation of a reorganized common sewer district under sections 204.600 to

204.640 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall first be filed with each county commission having jurisdiction in the geographic area the proposed district is situated. Such petition shall be ruled on by each county commission having jurisdiction within thirty days from the date of hearing the petition. If the petition for the reorganized district is rejected by any county commission having jurisdiction, no further action on the proposed district shall take place before the county commission which rejected the petition or the circuit court of that county in the county which rejected the petition. If approved by each county commission having jurisdiction, a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situated or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of acquiring or constructing sanitary sewer improvements with the district, if appropriate, an approximation of the assessed valuation of taxable property within the district, whether the board of trustees shall be elected or appointed by the county commission, and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding. The petition shall be signed by not less than fifty voters or property owners within the proposed district and shall request the incorporation of the territory therein described into a reorganized common sewer district. The petition shall be verified by at least one of the signers.

2. Upon filing, the petition shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as provided in this section. The clerk of the court shall give notice of the petition filing in some newspaper of general circulation in the county in which the proceedings are pending. If the district extends into any other county, such notice also shall be published in some newspaper of general circulation in such other county. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition. The notice shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice, and shall be on some regular judicial day of the court that the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing from time to time until final disposition.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for incorporation, may be made by any voter or property owner within the proposed districts, provided that such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions are filed, the court shall take them into consideration in passing upon the petition and also shall consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as the court may deem proper and enter its decree of incorporation, with such boundaries as changed. No public sewer district shall be formed under this chapter, chapter 249, RSMo, section 247.035, RSMo, or any sewer district created and organized under constitutional

authority, the boundaries of which shall encroach upon the corporate boundaries of any sewer district then existing or upon the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission. Nor shall any public sewer district extend wastewater collection and treatment services within the boundaries of another district without a written cooperative agreement between such districts or within the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission without a written cooperative agreement between the public sewer district and the certificated sewer corporation.

5. Should the court find that it would not be in the public interest to form such a district, the petition shall be dismissed at the cost of the petitioners. If the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court under the hearing. The decree shall further contain an appointment of five voters from the district to constitute the first board of trustees of the district. The court shall designate such trustees to staggered terms from one to five years such that one director is appointed or elected each year. The trustees appointed by the court shall serve for the terms designated and until their successors have been appointed or elected as provided in section 204.610. The decree shall further designate the name of the district by which it shall officially be known.

6. The decree of incorporation shall not become final and conclusive until it is submitted to the voters residing within the boundaries described in such decree and until it is assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date of submission. The returns shall be certified by the election authority to the circuit court having jurisdiction in the case, and the court shall enter its order canvassing the returns and declaring the result of such election.

7. If a majority of the voters of the district voting on such proposition approve of the proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required in this section, the court shall enter a further order declaring such decree of incorporation to be void. No appeal shall be permitted from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, with the recorder of deeds of the county or counties in which the district is situated, and with the clerk of the county commission of the county or counties in which the district is situated.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district is incorporated; otherwise the costs shall be paid by the petitioners.

9. If petitioners seeking formation of a reorganized common sewer district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decree relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds. The vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district.

10. Once a reorganized sewer district is established, the boundaries of the reorganized sewer district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, of a petition by either:

(1) The board of trustees of the reorganized sewer district and five or more voters or landowners within the territory proposed to be added to the district; or

(2) The board of trustees and a majority of the landowners within the territory that is proposed to be added to the reorganized sewer district.

If the petition is filed by a majority of the voters or landowners within the territory proposed to be added to the reorganized sewer district, the publication of notice shall not be required, provided notice is posted in three public places within such territory at least seven days before the date of the hearing, and provided that there is sworn testimony by at least five landowners in such territory, or a majority of the landowners if the total landowners in the area are fewer than ten. Otherwise the procedures for notice substantially shall follow the procedures in subsection 2 of this section for formation. Territory proposed to be added to the reorganized sewer district may be either contiguous or reasonably close to the boundaries of the existing district, provided that it shall not include any territory within the corporate boundaries of any sewer district then existing or within the certificated boundaries then existing of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission. Upon the entry of a final judgment declaring the court's decree of territory proposed to be added to the reorganized sewer district to be final and conclusive, the court shall modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district is enlarged or extended. Otherwise, such costs shall be paid by the petitioners. However, no costs shall be taxed to the trustees of the district.

11. Should any landowner who owns real estate that is not within the certificated boundaries of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission or within another sewer district organized under this chapter or chapters 249 or 247, RSMo, or under the Missouri Constitution, but that is contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire to have such real estate incorporated in the district, the landowner shall first petition the board of trustees for its approval. If such approval is granted, the secretary of the board shall endorse a certificate of the board's approval of the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the reorganized sewer district is incorporated. It then shall be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate. A certified copy of this amended decree including the real estate in the district then shall be filed in the office of the recorder, in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

12. The board of trustees of any reorganized common sewer district may petition the circuit court of the county containing the majority of the acreage in the district for an amended decree of incorporation to allow that district to engage in the construction, maintenance, and operation of water supply and distribution facilities that serve ten or more separate properties located wholly within the district, are not served by another political subdivision, or are not located within the certificated area of a water corporation as defined in chapter 386, RSMo, or within a public water supply district as defined in chapter 247, RSMo, and the operation and maintenance of all such existing water supply facilities. The petition shall be filed by the board of trustees, and all proceedings shall be in substantially the same manner as in action for initial formation of a reorganized common sewer district, except that no vote of the residents of the district shall be required. All applicable provisions of this chapter shall apply to the construction, operation, and maintenance of water supply facilities in the same manner as they apply to like functions relating to sewer treatment facilities.

204.604. PETITION REQUIREMENTS. — 1. Any existing common sewer district organized and existing under sections 204.250 to 204.270, and any sewer district organized

and existing under chapter 249, RSMo, may establish itself as a reorganized common sewer district under sections 204.600 to 204.640 by first filing a petition with the county commission of the county or counties in which it was established to approve its reorganization under sections 204.600 to 204.640 if the governing body of the district has by resolution determined that it is in the best interest of the district to reorganize under sections 204.600 to 204.640. The petition shall be ruled on by that county commission, or each county commission if the district exists in more than one county, within thirty days from the date of hearing the petition. If the petition for the reorganized district is rejected by the county commission or any county commissions in districts existing in more than one county, no further action on the reorganized district shall take place before the county commission or commissions comprising the district or the circuit having jurisdiction over the district court. If approved by the county commission, or each county commission if the district exists in more than one county, such petition shall specify whether the board of trustees shall be appointed by the governing body of the county or elected by the voters of the district. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by the trustees of the district and shall request the conversion of the district into a reorganized common sewer district.

2. Upon filing, the petition shall be presented to the circuit court, and such court shall fix a date for a hearing on the petition. The clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation within the existing district or closest to the existing district if there is no newspaper of general circulation within the existing district. If the existing district extends into any other county, such notice also shall be published in some newspaper of general circulation in such other county. The notice shall contain a description of the boundary lines of the existing district and the general purposes of the petition. The notice shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court where the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in a newspaper of general circulation.

3. The court, for good cause shown, may continue the case or the hearing from time to time until final disposition.

4. Exceptions to the conversion of an existing district to a reorganized common sewer district may be made by any voter or property owner within the proposed district, provided that such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions are filed, the court shall take them into consideration and shall consider the evidence in support of the petition and in support of the exceptions made. Should the court find that it would not be in the public interest to form such a district, the petition shall be dismissed at the cost of the petitioners. If the court finds that the conversion of the district to a reorganized common sewer district under sections 204.600 to 204.640 is in the best interests of the persons served by the existing district, then the court shall order the district's decree of incorporation amended to permit reorganization under sections 204.600 to 204.640. The existing board of trustees for such district shall continue to serve the reorganized common sewer district until such time as new trustees shall be appointed or elected as provided for in the court's decree. If their original terms of office are not so designated, the court shall designate such trustees to staggered terms from one to five years, so that one trustee is appointed or elected each year. The trustees appointed by the court shall serve for the terms designated and until their successors are appointed or elected as provided in section 204.610. The decree shall further designate the name of the district by which it officially shall be known.

204.606. BONDED INDEBTEDNESS AND SECURITY INTERESTS OF CREDITORS, EFFECT OF REORGANIZATION. — The bonded indebtedness or security interest of any creditor of any common sewer district originally organized and existing under sections 204.250 to 204.270 and any sewer district originally organized and existing under chapter 249, RSMo, that convert to a reorganized common sewer district shall not be impaired or affected by such conversion, and all covenants and obligations of such indebtedness shall remain in full force and effect, payable under the terms and conditions that existed without conversion.

204.608. DISTRICT A BODY CORPORATE AND POLITIC, WHEN — SEAL TO BE ADOPTED — JUDICIAL NOTICE OF EXISTENCE, WHEN. — 1. When a decree or amended decree of incorporation is issued as provided for in sections 204.600 to 204.640, a reorganized common sewer district shall be considered in law and equity a body corporate and politic and political subdivision of this state, known by the name specified in the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. A reorganized common sewer district also shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district with respect to any wastewater service provider authorized to provide sewer services under the laws of this state, except for sewer corporations providing service under a certificate of convenience and necessity granted by the public service commission.

2. All courts in this state shall take judicial notice of the existence of any district organized under sections 204.600 to 204.640.

204.610. TRUSTEES, APPOINTMENT, QUALIFICATIONS, COMPENSATION, TERMS. — 1. There shall be five trustees, appointed or elected as provided for in the circuit court decree or amended decree of incorporation for a reorganized common sewer district, who shall reside within the boundaries of the district. Each trustee shall be a voter of the district and shall have resided in said district for twelve months immediately prior to the trustee's election or appointment. A trustee shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of the trustee's election or appointment. Regardless of whether or not the trustees are elected or appointed, in the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the board of trustees, or the governing body of such bordering county may appoint a citizen from such county to serve as an additional member of the board of trustees. Said additional trustee shall meet the qualifications set forth in this section for a trustee.

2. The trustees shall receive no compensation for their services but may be compensated for reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district.

3. Except as provided in subsection 1 of this section, the term of office of a trustee shall be five years. The remaining trustees shall appoint a person qualified under this section to fill any vacancy on the board. The initial trustees appointed by the circuit court

shall serve until the first Tuesday after the first Monday in June or until the first Tuesday after the first Monday in April, depending upon the resolution of the trustees. In the event that the trustees are elected, said elections shall be conducted by the appropriate election authority under chapter 115, RSMo. Otherwise, trustees shall be appointed by the county commission in accordance with the qualifications set forth in subsection 1 of this section.

4. Notwithstanding any other provision of law, if there is only one candidate for the post of trustee, then no election shall be held, and the candidate shall assume the responsibilities of office at the same time and in the same manner as if elected. If there is no candidate for the post of trustee, then no election shall be held for that post and it shall be considered vacant, to be filled under the provisions of subsection 3 of this section.

204.612. LEVY AND COLLECTION OF TAXES PERMITTED, WHEN. — The board of trustees of a reorganized common sewer district shall have no power to levy or collect any taxes for the payment of any general obligation bond indebtedness incurred by the reorganized common sewer district unless the voters of the reorganized common sewer district authorizes the board to incur indebtedness at an election. All expenses and indebtedness incurred by the reorganized common sewer district may be paid from funds that may be received by the reorganized common sewer district from the sale of bonds authorized by the voters of the reorganized common sewer district.

204.614. BOND REQUIREMENTS — DEPOSIT OF DISTRICT MONEYS. — 1. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed, if the district has a seal. The interest coupons may be executed by affixing the facsimile signature of the secretary of the district.

2. The moneys of the reorganized common sewer district shall be deposited by the treasurer of the reorganized common sewer district in such bank or banks as shall be designated by order of the board of trustees. The secretary of the reorganized common sewer district shall charge the treasurer, and the moneys shall be drawn from the treasury upon checks or warrants issued by the reorganized common sewer district for the purposes for which the bonds were issued.

204.616. POWERS OF THE BOARD — INDUSTRIAL USER DEFINED. — 1. The board of trustees of any reorganized common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees and the district, and for carrying into effect the objectives for which the reorganized common sewer district is formed.

2. The board of trustees of a reorganized common sewer district, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission under section 644.026, RSMo, may exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

(3) The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting, and reporting programs and activities.

The board of trustees may, in addition to any pretreatment standards imposed under this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees under subsection 2 of this section shall be applicable and enforceable by civil, administrative, or other actions

within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district, or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted under the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section, shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system that is regulated under section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or hazardous waste handling or disposal facilities, and facilities that store or treat aqueous wastes as generated by facilities not located on site and that dispose of these wastes by discharging them into the district's wastewater system.

204.618. SURVEYS AND GENERAL PLAN FOR CONSTRUCTION, DUTY OF THE BOARD — AGREEMENTS AUTHORIZED — CONTRACTS PERMITTED — ADDITIONAL POWERS. — 1. It shall be the duty of the board of trustees of a reorganized common sewer district to make the necessary surveys and to lay out and define the general plan for the construction and acquisition of land, rights-of-way, and necessary sewers and treatment facilities, and of any extensions, expansions, or improvements within the district.

2. The board of trustees of a reorganized common sewer district may enter into agreements with each municipality, subdistrict, private district, sewer corporation, or any industrial user that discharges sewage into trunk sewers, streams, or the treatment facilities of the reorganized common sewer district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit, or other wastes that might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter, the trustees shall refer the dispute to the clean water commission. The determination of the commission shall be binding upon the district, municipality, subdistrict, sewer corporation, or private district. Each municipality, subdistrict, sewer corporation, or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a reorganized common sewer district or the governing body of any municipality, subdistrict, private district, sewer corporation, or industrial user discharging sewage into the stream or the system may petition the circuit court that decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination. That circuit court shall have jurisdiction in all cases or questions arising out of the organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, sewer corporation, and political subdivisions inside and outside the reorganized common sewer district to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, sewer corporations, and subdivisions are in the same natural drainage area or basins as the district. However, if such an area is located within the boundaries of an existing common sewer district or reorganized common sewer district organized and existing

under this chapter, a sewer district organized and existing under chapter 249, RSMo, a public water supply district organized under chapter 247, RSMo, or a sewer corporation, the board of trustees must give written notice to said district or sewer corporation before such a contract is entered into, and the district or sewer corporation must consent to said contract.

5. The board of trustees may refuse to receive any wastes into the sewage system that do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the common sewer district.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations to carry out its powers with respect to all municipalities, subdistricts, districts, sewer corporations, and industrial users that discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

(1) The promulgation of any rule, regulation, or ordinance;

(2) The issuance, modification, or revocation of any order;

(3) The issuance, modification, or revocation of any permit;

(4) Commencing an action through counsel for appropriate legal or equitable relief in the circuit court that decreed the district's incorporation against any industrial user in violation of the district's rules, regulations, and ordinances or any permit or order issued.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified, or revoked by the board including but not limited to the grant of reasonable time periods for such persons to respond and to show cause.

9. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer under powers and duties delegated to such executive officer by the board of trustees.

204.620. ACQUISITION OF REAL AND PERSONAL PROPERTY — USE OF PUBLIC GROUNDS, WHEN. — 1. The board of trustees may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property, and when condemnation is used, shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary to exercise its powers or accomplish its purposes. The board of trustees also shall have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers, as granted under section 388.210, RSMo, to railroad corporations.

2. The board of trustees of the reorganized common sewer district, if it is necessary to cross, follow, or traverse public streets, roads, alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: the board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley, or public park or place, a map showing the location and extent of the proposed occupancy for sewerage purposes and a plan of the proposed facilities, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of the street, road, alley, public park, or place, except during a reasonable time for the construction of the necessary works.

3. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the reorganized common sewer district.

204.622. TREATMENT PLANTS, CONTRACTS FOR — AGREEMENTS FOR PROFESSIONAL SERVICES. — 1. The board of trustees for the reorganized common sewer district shall let contracts for the construction of sewers and sewage treatment plants that will cost more than twenty-five thousand dollars, except in case of repairs or emergencies requiring prompt attention. Notice of the contract bid process shall be published in a newspaper of general circulation in the district. The board shall select the lowest responsible bidder in no less than twenty days following such publication. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees also shall have the power to enter into agreements with persons or firms to provide professional services to the board, and the board shall adopt policies for procuring the services of such professionals. The provisions of sections 8.285 to 8.291, RSMo, shall be applicable to the services of architects, engineers, and land surveyors unless the board of trustees adopts a formal procedure for the procurement of such services.

204.624. COSTS, HOW MET. — The cost of any reorganized common sewer district to acquire, construct, improve, or extend a sewerage system may be met:

(1) Through the expenditures by the common sewer district of any funds available for that purpose, including temporary or interim financing funds obtained through any federal or state loan program or from a local lending institution;

(2) From any other funds that may be obtained under any law of the state or of the United States or from any county or municipality for that purpose;

(3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of all the methods of providing funds;

(4) From the proceeds of general obligation bonds of the reorganized common sewer district, payable solely from voter-approved property taxes as provided for by law;

(5) From the proceeds of special obligation bonds of the reorganized common sewer district, payable solely from special fees or other revenues received by the district pledged for the purposes of payment of such bonds; or

(6) From the proceeds of user fees, charges, or other imposition for facilities and services provided by the district to its customers and users or the availability of services provided to persons, users, and customers within the district or who otherwise benefit from services provided by the district.

204.626. ISSUANCE OF REVENUE BONDS, PROCEDURE. — 1. A reorganized common sewer district may issue revenue bonds authorized by authority of a resolution adopted by the board of trustees of the reorganized common sewer district unless, in addition, the decree or amended decree of incorporation shall require any such bonds to be approved by the voters of the district after an election called for that purpose. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement, extension, or other project has been made and shall set out the estimated cost. It shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment, and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the reorganized common sewer district shall determine, subject to the provisions of section 108.170, RSMo. The resolution may provide that certain bonds authorized shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently with, prior to, or after such bonds.

204.628. FEES OR CHARGES LEVIED, WHEN DUE. — Any user fees or charges, connection fees, or other charges levied by the reorganized common sewer district to fund its general or special operations, maintenance, or payment of bonded indebtedness or other indebtedness shall be due at such time or times as specified by the reorganized common sewer district, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. In addition to and consistent with any other provision of applicable law, if such fees or charges or other amounts due become delinquent, there shall be a lien upon the land, and a notice of delinquency shall be filed with the recorder of deeds in the county where the land is situated. The reorganized common sewer district shall file with the recorder of deeds a similar notice of satisfaction of debt when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien created may be enforced by foreclosure by power of sale vested in the reorganized common sewer district if the reorganized common sewer district adopts written rules for the exercise of power of sale consistent with the provisions of sections 443.290 to 443.325, RSMo, which are recorded in the land records of the office of the recorder of deeds in each county in which the district is located. Otherwise, such lien shall be enforced by suit in the circuit court having jurisdiction against the property subject to the lien for judicial foreclosure and sale by special execution. Such suit may include a request for judgment against the persons responsible for payment of such delinquency as well as the person or persons owning the property to which services were provided, if different, including post-sale deficiency, and as a part of the relief, may include award of the district's reasonable attorney's fees, court costs, and other expenses reasonably incurred by the district for collection.

204.630. REVENUE BONDS, DUTIES OF DISTRICT. — It shall be the mandatory duty of any reorganized common sewer district issuing any general or special revenue bonds under sections 204.600 to 204.640 to:

(1) Fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation;

(2) Pay the principal of and the interest on all revenue bonds issued by the reorganized common sewer district chargeable to the revenues of the system; and

(3) Provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued.

From time to time, the rates shall be revised to meet fully the requirements of sections 204.600 to 204.640. As long as any bond issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the reorganized common sewer district that issued the bonds.

204.632. REVENUE BONDS, NET REVENUES TO BE PLEDGED. — 1. Whenever any reorganized common sewer district authorizes and issues revenue bonds under sections 204.600 to 204.640, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the bonds are issued shall, by operation of sections 204.600 to 204.640, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" means all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the reorganized common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

204.634. RESOLUTION AUTHORIZING REVENUE BONDS — ACCOUNTS. — 1. The resolution of the board of trustees of the reorganized common sewer district authorizing the issuance of revenue bonds under the authority of sections 204.600 to 204.640 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

(1) An account to provide funds to operate and maintain the system;

(2) An account to provide funds to pay principal and interest on the bonds as they come due;

(3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;

(4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest whenever and to the extent that other funds are not available for that purpose;

(5) An account to provide funds for contingent expenses in the operation of the system;

(6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and

(7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution also may establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

204.636. ISSUANCE OF REFUNDING BONDS, WHEN. — For the purpose of refunding, extending, and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a sewerage system, any reorganized common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the reorganized common sewer district shall provide for the payment of interest which shall not exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided for the payment of interest on and principal of the bonds to be refunded.

204.638. GRANTS OR FUNDS FROM STATE OR FEDERAL GOVERNMENT, TRUSTEES TO ACCEPT. — The board of trustees of the reorganized common sewer district may apply for and accept grants or funds and material or labor from the state and federal government in the construction of a sewerage system, as provided by sections 204.600 to 204.640, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

204.640. COURTS AND OFFICERS OF POLITICAL SUBDIVISIONS TO COOPERATE WITH DISTRICT. — It shall be the duty of the mayors of cities, the circuit court, the governing bodies of counties, all political subdivisions, and all assessors, sheriffs, collectors, treasurers, and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.600 to 204.640.

204.650. CITATION OF LAW — DEFINITIONS. — Sections 204.650 to 204.672 shall be known and may be cited as the "Sanitary Sewer Improvement Area Act", and the following words and terms, as used in these sections, mean:

(1) "Acquire", the acquisition of property or interests in property by purchase, gift, condemnation, or other lawful means and may include the acquisition of existing property and improvements already owned by the district;

(2) "Assess or assessment", a unit of measure to allocate the cost of an improvement among property or properties within a sanitary sewer improvement area based on an equitable method of determining benefits to any such property resulting from an improvement;

(3) "Consultant", engineers, architects, planners, attorneys, financial advisors, accountants, investment bankers, and other persons deemed competent to advise and assist the governing body of the district in planning and making improvements;

(4) "Cost", all costs incurred in connection with an improvement, including but not limited to costs incurred for the preparation of preliminary reports, preparation of plans and specifications, preparation and publication of notices of hearings, resolutions, ordinances, and other proceedings, fees, and expenses of consultants, interest accrued on borrowed money during the period of construction, underwriting costs, and other costs incurred in connection with the issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or notes, the cost of land, materials, labor, and other lawful expenses incurred in planning, acquiring, and doing any improvement, reasonable construction contingencies, and work done or services performed by the district in the administration and supervision of the improvement;

(5) "District or common sewer district", any public sanitary sewer district or reorganized common sewer district established and existing under this chapter or chapter 249, RSMo, and any metropolitan sewer district organized under the constitution of this state;

(6) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, or to otherwise perform any work that will provide a new sanitary sewer facility or enhance, extend, or restore the value or utility of an existing sanitary sewer facility;

(7) "Improvement", any one or more sanitary sewer facilities or improvements that confer a benefit on property within a definable area and may include or consist of a reimprovement of a prior improvement. Improvements include but are not limited to the following activities:

(a) To acquire property or interests in property when necessary or desirable for any purpose authorized by sections 204.650 to 204.672;

(b) To improve sanitary sewers, wastewater treatment plants, lagoons, septic tanks and systems, and any and all other sanitary sewer and waste water collection and

treatment systems of any type, whether located on improved or unimproved public or private property, the general object and nature of which will either preserve, maintain, improve, or promote the general public health, safety, and welfare, or the environment, regardless of technology used;

(8) "Sanitary sewer improvement area", an area of a district with defined limits and boundaries that is created by petition under sections 204.650 to 204.672 and that is benefited by an improvement and subject to assessments against the real property for the cost of the improvement, provided that no such improvement area shall include any real property within the certificated boundaries of any sewer corporation providing service under a certificate of convenience and necessity granted by the public service commission;

(9) "User fee", a fee established and imposed by a district to pay an assessment, in periodic installments, for improvements made in a sanitary sewer improvement area that benefit the property within such area that is subject to the assessment.

204.652. IMPROVEMENTS MAY BE MADE — ISSUANCE OF REVENUE BONDS — ASSSESSMENTS. — As an alternative to all other methods provided by law or charter, the governing body of any sewer district or reorganized sewer district organized and operated under this chapter or chapter 249, RSMo, or any metropolitan sewer district organized under the constitution of this state, may make, or cause to be made, improvements that confer a benefit upon property within a sanitary sewer improvement area under sections 204.650 to 204.672. The governing body of such district may issue temporary notes and revenue bonds under sections 204.650 to 204.672 to pay for all or part of the cost of such improvements. An improvement may be combined with one or more other improvements for the purpose of issuing a single series of revenue bonds to pay all or part of the cost of the sanitary sewer improvement area's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 204.650 to 204.672. Such district shall make assessments and may impose user fees on the property located within the sanitary sewer improvement area, in addition to any other fees or charges imposed by the district to provide services or pay debt. The district shall use the moneys collected from such assessments and user fees from a sanitary sewer improvement area to reimburse the district for all amounts paid or to be paid by it as principal of and interest on its temporary notes and revenue bonds issued for the improvements made in the sanitary sewer improvement area.

204.654. ESTABLISHMENT OF AREA, PROCEDURE. — 1. To establish a sanitary sewer improvement area, the governing body of the sewer district shall comply with the following procedure: the governing body of the district may create a sanitary sewer improvement area when a proper petition has been signed by the owners of record of four-sevenths of the property within the proposed sanitary sewer improvement area. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer improvement area shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed sanitary sewer improvement area, the proposed method or methods of financing the project, including the estimated amount of and method for imposing user fees against the real property within the sanitary sewer improvement area to pay for the cost of the improvements and any bonds issued, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the district, and a notice that the final cost of such improvement and the amount of revenue bonds issued shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent.

2. Upon filing a proper petition with the district, the governing body may, by resolution, determine the advisability of the improvement and may order that the area be established and that preliminary plans and specifications for the improvement be made.

Such resolution shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the sanitary sewer improvement area, the proposed method or methods of imposing assessments and, if known, proposed estimated user fees within the district. The resolution also shall state that the final cost of such improvement within the sanitary sewer improvement area and the amount of revenue bonds issued shall not, without a new petition, exceed the estimated cost of such improvement by more than twenty-five percent.

3. The boundaries of the proposed area shall be described by bounds, streets, or other sufficiently specific description.

204.656. COSTS APPORTIONED AGAINST PROPERTY. — The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer improvement area shall be apportioned against such property in accordance with the benefits accruing by reason of such improvement. Subject to the provisions of the farmland protection act, sections 262.800 to 262.810, RSMo, the cost may be assessed equally by lot or tract against property within the area, or by any other reasonable assessment plan determined by the governing body of the district that results in imposing substantially equal burdens or share of the cost upon property similarly benefited. The governing body of the district may from time to time determine and establish by resolution reasonable general classifications and formula for the methods of assessing or determining the benefits.

204.658. ASSESSMENTS REQUIRED, ROLL TO BE PREPARED. — 1. After the governing body has made the findings specified in sections 204.650 to 204.672 and plans and specifications for the proposed improvements have been prepared, the governing body shall by resolution order assessments to be made against each parcel of real property deemed to be benefited by an improvement based on the revised estimated cost of the improvement or, if available, the final cost, and shall order a proposed assessment roll to be prepared.

2. The plans and specifications for the improvement and the proposed assessment roll shall be filed with the district and shall be open for public inspection. Such district shall, at the direction of the governing body, publish notice that the governing body will conduct a hearing to consider the proposed improvement and proposed assessments. Such notice shall be published in a newspaper of general circulation at least once not more than twenty days and not less than ten days before the hearing and shall state the project name for the improvement, the date, time, and place of such hearing, the general nature of the improvement, the revised estimated cost or, if available, the final cost of the improvement, the boundaries of the sanitary sewer improvement area to be assessed, and that written or oral objections will be considered at the hearing. Not less than ten days before, the district shall mail to the owners of record of the real property in the sanitary sewer improvement area, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed against the real property so owned and assessed. The failure of any owner to receive such notice shall not invalidate the proceedings.

204.660. HEARING, PROCEDURE — NOTICE TO PROPERTY OWNERS — SPECIAL ASSESSMENTS. — 1. At the hearing to consider the proposed improvements and assessments, the governing body shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications, or assessments as to any property, and thereupon by resolution, the governing body shall order that the improvement be made and direct that financing for the cost be obtained as provided in sections 204.650 to 204.672.

2. After the improvement has been completed in accordance with the plans and specifications, the governing body shall compute the final costs of the improvement and apportion the costs among the property benefited by such improvement in such equitable manner as the governing body shall determine, charging each tract, lot, or parcel of property with its proportionate share of the costs, and by resolution, assess the final cost of the improvement, or the amount of revenue bonds issued or to be issued to pay for the improvement, as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the resolution assessing the special assessments, the district shall mail to each property owner within the district a notice that sets forth a description of each owners tract, lot, or parcel of real property to be assessed, the assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued from the effective date of such resolution, on or before a specified date determined by the effective date of the resolution, or may pay such assessment in the form of user fees in periodic installments as provided in subsection 4 of this section. Notice of each assessment and imposition of the assessment lien, together with a legal description for each property assessed within the area, shall be filed with the recorder of deeds upon the effective date of the resolution. However, failure to record any such notice in a timely manner shall not affect the validity of the assessments or liens. The district shall record written notice of release of lien whenever an assessment is paid in full. The cost of recording assessment notices and release of liens shall be includable in the assessment.

4. The special assessments shall be assessed upon the property within the area. Those not paid in full as provided in subsection 3 of this section shall be payable in the form of user fees payable in periodic and substantially equal installments, as determined by the district, for a duration prescribed by the resolution establishing the special assessments. All assessments shall bear interest at such rate as the governing body determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between the effective date of the resolution assessing the special assessments and the date the first installment of a user fee is payable shall be added to the first installment or prorated among all scheduled installments.

5. Assessments not paid in full shall be collected and paid over to the district in the form of user fees in the same manner as other district fees and charges are collected and paid, or by any other reasonable method determined by the district.

204.662. COURT ACTION, LIMITATION. — No suit to set aside the assessments made under sections 204.680 to 204.730, or to otherwise question the validity of the proceedings, shall be brought after the expiration of ninety days from the date the notice is mailed to the last known owners of record of the assessments required by subsection 3 of section 204.660.

204.664. SUPPLEMENTAL OR ADDITIONAL ASSESSMENTS PERMITTED, WHEN — REASSESSMENT OR NEW ASSESSMENT REQUIRED, WHEN. — 1. To correct omissions, errors, or mistakes in the original assessment that relate to the total cost of an improvement, the governing body of the district may, without a notice or hearing, make supplemental or additional assessments on property within a sanitary sewer improvement area, except that such supplemental or additional assessments shall not, without a new petition as provided in sections 204.650 to 204.672, exceed twenty-five percent of the estimated cost of the improvement as set forth in the petition under the provisions of sections 204.650 to 204.672.

2. When an assessment is, for any reason whatsoever, set aside by a court of competent jurisdiction as to any property, or in the event the governing body finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing that it is or may be invalid for any reason, the governing body may, upon notice

and hearing as provided for the original assessment, make a reassessment or a new assessment as to such property.

204.666. ASSESSMENT TO CONSTITUTE A LIEN, WHEN. — An assessment authorized under sections 204.650 to 204.672, once determined and imposed, shall constitute a lien against such property until paid in full and shall not be affected by the existence or enforcement of any other liens or encumbrances, nor shall enforcement of an assessment lien have any effect on the validity or enforcement of any tax lien or lien established by mortgage or deed of trust. An assessment lien becomes delinquent when an assessment is not paid in full as prescribed by sections 204.650 to 204.672, or when one or more periodic installments imposed by the district for an assessment remain unpaid for a period of thirty days or more after notice of delinquency in payment is mailed to the last known owners of the property subject to assessment by regular United States mail and by certified mail, return receipt requested, at their last known address, provided by such owners to the district and to the occupant of property that is subject to assessment, if different from that of the owners. In the event any such user fee remains unpaid after thirty days of the mailing of any such notice, and in addition to any other remedy the district may have by statute or duly enacted regulation for the collection of delinquent amounts owed to the district, the district shall be entitled to petition the circuit court having jurisdiction to foreclose upon the assessment lien by special execution sale of the property subject to the assessment for the unpaid assessment plus reasonable attorney's fees, court costs, and other reasonable costs incurred by the district in collection. In any such suit, the district shall name all parties appearing of record to have or claim an interest in the property subject to the unpaid assessment and shall file a notice of lis pendens in connection with said action. In addition, the district may obtain a judgment against last known owners of the property for any deficiency in payment of the assessment and costs and fees made a part of the court's judgment.

204.668. TEMPORARY NOTES AUTHORIZED, WHEN. — After an improvement has been authorized under sections 204.650 to 204.672, the governing body of the district may issue temporary notes of the district to pay the costs of such improvement in an amount not to exceed the estimated cost of such improvement. Such temporary notes may be issued in anticipation of issuance of revenue bonds of the district. The district may participate in any governmentally sponsored bond pooling program or other bond program. Bonds may be issued and made payable from special assessments paid in the form of user fees under subsection 4 of section 204.660 and other revenues of the district.

204.670. FUNDS REQUIRED. — A separate fund or account shall be created by the district for each improvement project, and each such fund or account shall be identified by a suitable title. The proceeds from the sale of bonds and temporary notes and any other moneys appropriated thereto by the governing body of the district shall be credited to such funds or accounts. Such funds or accounts shall be used solely to pay the costs incurred in making each respective improvement. Upon completion of an improvement, the balance remaining in the fund or account established for such improvement, if any, may be held as contingent funds for future improvements or may be credited against the amount of the original assessment of each parcel of property, on a pro rata basis based on the amount of the original assessment, and with respect to property owners that have prepaid their assessments in accordance with sections 204.650 to 204.672, the amount of each such credit shall be refunded to the appropriate property owner. With respect to all other property owners, the amount of each such credit shall be transferred and credited to the district bond and interest fund to be used solely to pay the principal of and interest on the bonds or temporary notes, and the assessments shall be reduced accordingly by the amount of such credit.

204.672. COOPERATIVE AGREEMENTS AUTHORIZED, WHEN. — Any public sanitary sewer district or reorganized sewer district organized and operated under this chapter or chapter 249, RSMo, and any metropolitan sewer district organized under the constitution of this state, may enter into a cooperative agreement with a city or county for the purpose of constructing sanitary sewer system improvements under the provisions of the neighborhood improvement district act, sections 67.453 to 67.475, RSMo. Any such cooperative agreement, if approved by the governing bodies of the district and city or county, may include provisions for joint administration of projects for the issuance of temporary notes and general obligation bonds by district, city, or county, separately or jointly, and for the payment of such bonds by any source of funds or user fees in addition to funds from special assessments as provided for in sections 67.453 to 67.475, RSMo, and general ad valorem taxes, so long as all terms, conditions, and covenants of any applicable bond resolution or ordinance are complied with and so long as said notes and bonds are issued in compliance with general applicable law.

204.674. INAPPLICABILITY. — The provisions of sections 204.600 to 204.672 shall not apply to the provisions in section 204.472, any city not within a county and any county with a charter form of government and with more than one million inhabitants, any sewer district created and organized under constitutional authority, any sewer district located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants that provides wholesale sewer service.

205.563. PROPERTY TAX FOR RURAL HEALTH CLINIC — BALLOT LANGUAGE — REVENUE, USE OF MONEYS (CITY OF CENTERVIEW) — 1. The governing body of any city of the fourth classification with more than two hundred but fewer than three hundred inhabitants and located in any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants may impose, by order or ordinance, an annual real property tax to fund the construction, operation, and maintenance of a community health center. The tax authorized in this section shall not exceed thirty-five cents per year on each one hundred dollars of assessed valuation on all taxable real property within the city. Any such city may enter into an agreement or agreements with taxing jurisdictions located at least partially within the incorporated limits of such city to levy the tax authorized under this section upon real property located within the jurisdiction of such district, but outside the incorporated limits of such city, provided that any taxing jurisdiction desiring to levy such tax shall first receive voter approval of such measure in the manner and form contained in this section. The tax authorized in this section shall be in addition to all other property taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within such city at a state general, primary, or special election a proposal to authorize the city to impose a tax under this section.

3. The question shall be submitted in substantially the following form:

"Shall the city of ..... and ..... district (if applicable) be authorized to impose a tax on owners of real property in an amount equal to ..... (insert amount not to exceed thirty-five cents) per one hundred dollars assessed valuation for the purpose of constructing, operating, and maintaining a community health center?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective in the tax year immediately

following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. The tax authorized under this section shall be levied and collected in the same manner as other real property taxes are levied and collected within the city.

5. The governing body of any city that has imposed a real property tax under this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on the first day of the tax year immediately following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has imposed a real property tax under this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax, the governing body shall submit to the voters of such city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on the first day of the tax year immediately following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. If the real property tax authorized under this section is repealed or terminated by any means, all funds collected under the tax shall continue to be used solely for the designated purposes.

206.090. ELECTION DISTRICTS — ELECTION OF DIRECTORS — TERMS, QUALIFICATIONS, VACANCIES, DECLARATION OF CANDIDACY — NO ELECTION, WHEN — ABOLISHING ELECTION DISTRICTS, PROCEDURE — ELECTION OF DIRECTORS AT LARGE. — 1. After the hospital district has been declared organized, the declaring county commission shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the hospital district within ninety days after the order establishing the hospital district to elect hospital district directors. Each voter shall vote for six directors, one from each district**, except in any county of the third classification without a township form of government and with more than ten thousand six hundred but fewer than ten thousand seven hundred inhabitants, each voter shall vote for one director from the hospital election district in which the voter resides**. Directors shall serve a term of six years or a lesser term of years as may be established by the county commission. If directors are to serve a term of six years, the initial term of the director elected from district number one shall serve a term of one year, the director elected from district number two shall serve a term of two years, the director elected from district number three shall serve a term of three years, the director elected from district number four shall serve a term of four years, the director elected from district number five shall serve a term of five years, and the director elected from district number six shall serve a term of six years; thereafter, the terms of all directors shall be six years. If the county commission chooses to establish a term of office of less than six years, the initial election of directors shall be done in a manner established by the county commission. All directors shall serve until their successors are elected and qualified. Any vacancy shall be filled by the remaining members of the board of directors who shall appoint a person to serve as director until the next municipal election.

2. Candidates for director of the hospital district shall be citizens of the United States, voters of the hospital district who have resided within the state for one year next preceding the election and who are at least thirty years of age. All candidates shall file their declaration of candidacy with the county commission calling the election for the organizational election, and for subsequent elections, with the secretary of the board of directors of the district.

3. Notwithstanding any other provisions of law, if the number of candidates for office of director is no greater than the number of directors to be elected, no election shall be held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected.

4. Notwithstanding the provisions of subsections 1 to 3 of this section, after the formation of the hospital district, the hospital board of directors, by a majority vote of the directors with the consent of a majority of the county commission on an order of record, may abolish the six hospital districts' election districts and cause the hospital district directors to be elected from the hospital district at large. Upon opting to elect the hospital district directors at large, the then serving hospital district directors shall continue to serve the remainder of their terms and any vacancies on the board, after the date of such option, shall be filled by an election conducted at large in the district.

221.040. SHERIFF AND JAILER TO RECEIVE PRISONERS — PENALTY FOR REFUSAL — MEDICAL EXAMS REQUIRED. — **1.** It shall be the duty of the sheriff and jailer to receive, from constables and other officers, all persons who shall be apprehended by such constable or other officers, for offenses against this state, or who shall be committed to such jail by any competent authority; and if any sheriff or jailer shall refuse to receive any such person or persons, he or she shall be adjudged guilty of a misdemeanor, and on conviction shall be fined in the discretion of the court.

2. The sheriff and jailer shall not be required to receive or detain a prisoner in custody under subsection 1 of this section until the arresting constable or other officer has had the prisoner examined by a physician or competent medical personnel if the prisoner appears to be:

(1) Unconscious;

(2) Suffering from a serious illness;

(3) Suffering from a serious injury; or

(4) Seriously impaired by alcohol, a controlled substance as defined in section 195.017, RSMo, a drug other than a controlled substance, or a combination of alcohol, a controlled substance, or drugs.

3. The cost of the examination and resulting treatment under subsection 2 of this section is the financial responsibility of the prisoner receiving the examination or treatment.

226.527. SIGNS NOT TO BE VISIBLE FROM MAIN HIGHWAY — REMOVAL, COMPENSATION — NO REMOVAL, WHEN — LOCAL LAW APPLICABLE, WHEN, EXTENT. — 1. On and after August 13, 1976, no outdoor advertising shall be erected or maintained beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of its message being read from such traveled way, except such outdoor advertising as is defined in subdivisions (1) and (2) of section 226.520.

2. No compensation shall be paid for the removal of any sign erected in violation of subsection 1 of this section unless otherwise authorized or permitted by sections 226.501 to 226.580. No sign erected prior to August 13, 1976, which would be in violation of this section if it were erected or maintained after August 13, 1976, shall be removed unless such removal is required by the Secretary of Transportation and federal funds required to be contributed to this state under section 131(g) of Title 23, United States Code, to pay compensation for such removal

have been appropriated and allocated and are immediately available to this state, and in such event, such sign shall be removed pursuant to section 226.570.

3. In the event any portion of this chapter is found in noncompliance with Title 23, United States Code, section 131, by the Secretary of Transportation or his representative, and any portion of federal-aid highway funds or funds authorized for removal of outdoor advertising are withheld, or declared forfeited by the Secretary of Transportation or his representative, all removal of outdoor advertising by the Missouri state highways and transportation commission pursuant to this chapter shall cease, and shall not be resumed until such funds are restored in full. Such cessation of removal shall not be construed to affect compensation for outdoor advertising removed or in the process of removal pursuant to this chapter.

4. In addition to any applicable regulations set forth in sections 226.500 through 226.600, signs within an area subject to control by a local zoning authority and wherever located within such area shall be subject to reasonable regulations of that local zoning authority relative to size, lighting, spacing, and location; provided, however, that no local zoning authority shall have authority to require any sign within its jurisdiction which was lawfully erected and which is maintained in good repair to be removed without the payment of just compensation.

5. When a legally erected billboard exists on a parcel of property, a local zoning authority shall not adopt or enforce any ordinance, order, rule, regulation or practice that eliminates the ability of a property owner to build or develop property or erect an on-premise sign solely because a legally erected billboard exists on the property.

228.110. ROADS MAY BE VACATED, HOW. — 1. Any twelve residents of the township or townships through which a road runs may make application for the vacation of any such road or part of the same as useless, and the repairing of the same an unreasonable burden upon the district or districts. The petition shall be publicly read on the first day of the term at which it is presented, and the matter continued without further proceedings until the next term.

2. Notice of the filing of such petition and of the road sought to be vacated shall be posted up in not less than three public places in such township or townships, at least twenty days before the first day of the next term of the commission, and a copy of the same shall be personally served on all the persons residing in the district whose lands are crossed or touched by the road proposed to be vacated in the same manner as other notices are required to be served by law; and at the next regular term the same shall again be publicly read on the first day thereof.

3. If no remonstrance is made thereto in writing, signed by at least twelve residents of the township, the commission may proceed to vacate such road, or any part thereof, at the cost of the petitioners; but if a remonstrance thereto in writing, signed by at least twelve residents of such township or townships, is filed, and the commission after considering the same shall decide that it is just to vacate such road, or any part thereof, against the vacation of which the remonstrance was filed, the costs shall be paid by the parties remonstrating, and the original costs, and damages for opening such vacated road shall be paid by the petitioners to those who paid the same, except that if five years have elapsed since the original opening of the same no such reimbursement shall be made.

4. Notwithstanding any other provision of this section to the contrary, in any county with a charter form of government, any twenty-five residents of the county through which a road subject to this section runs and who reside on any portion of such road or on another road that intersects such road and within one mile of the right-of-way to be vacated, may apply for the vacation of such road or part of such road as no longer serving the public health, safety, and welfare. The county may, by order or ordinance, provide for notice and hearing of such petitions and for filing and hearing remonstrances against them.

228.190. ROADS LEGALLY ESTABLISHED, WHEN — DEEMED ABANDONED, WHEN — ROADS DEEMED PUBLIC COUNTY ROADS, WHEN. — 1. All roads in this state that have been

established by any order of the county commission, and have been used as public highways for a period of ten years or more, shall be deemed legally established public roads; and all roads that have been used as such by the public for ten years continuously, and upon which there shall have been expended public money or labor for such period, shall be deemed legally established roads; and nonuse by the public for five years continuously of any public road shall be deemed an abandonment and vacation of the same.

2. From and after January 1, 1990, any road in any county that has been identified as a county road for which the county receives allocations of county aid road trust funds from or through the department of transportation for a period of at least five years shall be conclusively deemed to be a public county road without further proof of the status of the road as a public road. No such public road shall be abandoned or vacated except through the actions of the county commission declaring such road vacated after public hearing, or through the process set out in section 228.110.

3. In any litigation where the subject of a public road is at issue under this section, an exact location of the road is not required to be proven. Once the public road is determined to exist, the judge may order a survey to be conducted to determine the exact location of the public road and charge the costs of the survey to the party who asserted that the public road exists.

235.210. BOUNDARIES OF DISTRICT MAY BE ALTERED TO INCLUDE NEW TERRITORY — ANNEXATION, PROCEDURE. — 1. The boundaries of any district organized under the provisions of this law may be changed in the manner prescribed in this section and in section 235.220, but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; or shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had the change of boundaries not been made.

2. **[**Two-thirds of the owners of real property in an area contiguous with a street light maintenance district organized under this law and not located within any municipality or another street light maintenance district may file with the board a petition in writing praying that the real property be included within the district. The petition shall describe the property to be annexed and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition.

3. The secretary of the board shall cause notice of the filing of the petition to be given and published in the county in which the property is located, which notice shall recite the filing of the petition, the names of the petitioners, the descriptions of the lands sought to be included and the prayer of the petitioners, giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted.

4. The board shall at the time and place mentioned, or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why the petition shall not be granted shall be deemed and held and taken as an assent on his part to the inclusion of the lands in the district as prayed for in the petition.

5. If the petition is granted, the board shall make an order to that effect and file the same with the county clerk; and upon the order of the county commission, the property shall be included in the district, and thereafter a copy of the order of the board and the order of the commission shall be filed with the recorder. The county commission shall proceed to make the order including such additional property within the district as is provided in the order of the board, unless the commission shall find that the order of the board was not authorized by law or that the order of the board was not supported by competent and substantial evidence.**] A petition for annexation of real property in an area contiguous with a street light maintenance**

district organized under this chapter and not located within any municipality or another street light maintenance district shall be signed by property owners who own not less than ten percent of the parcels of property within the area proposed for annexation. The petition shall be filed with the county clerk in which the district is situated and shall be addressed to the county commission. A hearing shall be held regarding the proposed annexation petition as soon as reasonably possible. If the county commission finds at the hearing that the petition is in compliance with the provisions of this section, they shall order the question to be submitted to the voters within the proposed area of annexation and within the district at a municipal, primary, or general election.

3. The question shall be submitted in substantially the following form: "Shall.....(description of area) be annexed to the .....street light maintenance district?

YES [ ] NO [ ]

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"."

4. If a majority of the votes cast on the question in the district and in the area described in the petition, respectively, are in favor of the annexation, the county commission shall by order declare the area annexed and shall describe the altered boundaries of the district. A copy of the order of the commission shall be filed within the county recorder. If a majority of the votes cast on the question in the district and in the area described in the petition, respectively, are not in favor of the annexation, such area shall not be declared annexed. No such question shall be resubmitted to the voters sooner than twelve months from the date of submission of the last question.

238.202. DEFINITIONS. — 1. As used in sections 238.200 to 238.275, the following terms mean:

(1) "Board", the board of directors of a district;

(2) "Commission", the Missouri highways and transportation commission;

(3) "District", a transportation development district organized under sections 238.200 to 238.275;

(4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;

(5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

(1) "Approval of the required majority" or "direct voter approval", a simple majority;

(2) "Qualified electors", "qualified voters" or "voters", **[**if**]** **within the proposed or established district,** any persons **[**eligible to be registered voters reside within the proposed district, such persons**]** **residing therein** who have registered to vote pursuant to chapter 115, RSMo, **[**or if no persons eligible to be registered voters reside within the proposed district,**]** **and** the owners of real property **[**located within the proposed district**], who shall receive one vote per acre, provided that any registered voter who also owns property must elect whether to vote as an owner or a registered voter**;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo.

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS — ALTERNATIVE METHOD. — 1. Whenever the

creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, except public streets, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties; provided:

(1) Property separated only by public streets, easements or rights-of-way shall be considered contiguous;

(2) In the case of a district formed pursuant to a petition filed by the owners of record of all of the real property located within the proposed district, the proposed district area need not contain contiguous properties if:

(a) The petition provides that the only funding method for project costs will be a sales tax;

(b) The court finds that all of the real property located within the proposed district will benefit by the projects to be undertaken by the district; and

(c) Each parcel within the district is within five miles of every other parcel; and

(3) In the case of a district created pursuant to subsection 5 of this section, property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) **The estimated project costs and the anticipated revenues to be collected from the project;**

(6) The name of the proposed district;

[(6)**]** **(7)** The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

[(7)**]** **(8)** A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

[(8)**]** **(9)** If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

[(9)**]** **(10)** A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters **[**residing**]** within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

[(10)**]** **(11)** A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

5. (1) As an alternative to the methods described in subsections 1 and 2 of this section, if two or more local transportation authorities have adopted resolutions calling for the joint establishment of a district, the governing body of any one such local transportation authority may file a petition in the circuit court of any county in which the proposed project is located requesting the creation of a district.

(2) The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

(3) The petition shall set forth:

(a) That the petitioner is the governing body of a local transportation authority acting in its official capacity;

(b) The name of each local transportation authority within the proposed district. The resolution of the governing body of each local transportation authority calling for the joint establishment of the district shall be attached to the petition;

(c) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(d) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(e) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project;

(f) The name of the proposed district;

(g) The number of members of the board of directors of the proposed district;

(h) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop the projects described in the petition;

(i) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the imposition of the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(j) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

238.208. ANNEXATION OF PROPERTY ADJACENT TO A TRANSPORTATION DISTRICT, PROCEDURE — REMOVAL OF PROPERTY, PROCEDURE. — 1. The owners of property adjacent to a transportation district formed under the Missouri transportation development district act may petition the court by unanimous petition to add their property to the district. If the property owners within the transportation development district unanimously approve of the addition of property, the adjacent properties in the petition shall be added to the district. Any property added under this section shall be subject to all projects, taxes, and special assessments in effect as of the date of the court order adding the property to the district. The owners of the added property shall be allowed to vote at the next election scheduled for the district to fill vacancies on the board and on any other question submitted to them by the board under this chapter. The owners of property added under this section shall have one vote per acre in the same manner as provided in subdivision (2) of subsection 2 of section 238.220.

2. The owners of all of the property located in a transportation development district formed under this chapter may, by unanimous petition filed with the board of directors of the district, remove any property from the district, so long as such removal will not materially affect any obligations of the district.

238.220. DIRECTORS, ELECTION OF, HOW, QUALIFICATIONS — ADVISORS, APPOINTED WHEN, DUTIES. — 1. Notwithstanding anything to the contrary contained in section 238.216, if any persons eligible to be registered voters reside within the district the following procedures shall be followed:

(1) After the district has been declared organized, the court shall upon petition of any interested person order the county clerk to cause an election to be held in all areas of the district within one hundred twenty days after the order establishing the district, to elect the district board of directors which shall be not less than five nor more than fifteen;

(2) Candidates shall pay the sum of five dollars as a filing fee to the county clerk and shall file with the election authority of such county a statement under oath that he or she possesses all of the qualifications set out in this section for a director. Thereafter, such candidate shall have his or her name placed on the ballot as a candidate for director;

(3) The director or directors to be elected shall be elected at large. The candidate receiving the most votes from qualified voters shall be elected to the position having the longest term, the second highest total votes elected to the position having the next longest term, and so forth. Each initial director shall serve the one-, two- or three-year term to which he or she was elected, and until a successor is duly elected and qualified. Each successor director shall serve a three-year term. The directors shall nominate and elect an interim director to complete any unexpired term of a director caused by resignation or disqualification; and

(4) Each director shall be a resident of the district. Directors shall be registered voters at least twenty-one years of age.

2. Notwithstanding anything to the contrary contained in section 238.216, if no persons eligible to be registered voters reside within the district, the following procedures shall apply:

(1) Within thirty days after the district has been declared organized, the circuit clerk of the county in which the petition was filed shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, call a meeting of the owners of real property within the district at a day and hour specified in a public place in the county in which the petition was filed for the purpose of electing a board of not less than five and not more than fifteen directors, to be composed of owners or representatives of owners of real property in the district; provided that, if all the owners of property in the district joined in the petition for formation of the district, such meeting may be called by order of the court without further publication**. For the purposes of determining board membership, the owner or owners of real property within the district and their legally authorized representative or representatives shall be deemed to be residents of the district; for business organizations and other entities owning real property within the district, the individual or individuals legally authorized to represent the business organizations or entities in regard to the district shall be deemed to be a resident of the district**;

(2) The property owners, when assembled, shall organize by the election of a chairman and secretary of the meeting who shall conduct the election. At the election, each acre of real property within the district shall represent one share, and each owner may have one vote in person or by proxy for every acre of real property owned by such person within the district;

(3) The one-third of the initial board members receiving the most votes shall be elected to positions having a term of three years. The one-third of initial board members receiving the next highest number of votes shall be elected to positions having a term of two years. The lowest one-third of initial board members receiving sufficient votes shall be elected to positions having a term of one year. Each initial director shall serve the term to which he or she was elected, and until a successor is duly elected and qualified. Successor directors shall be elected in the same manner as the initial directors at a meeting of the real property owners called by the board. Each successor director shall serve a three-year term. The directors shall nominate and elect an interim director to complete any unexpired term of a director caused by resignation or disqualification;

(4) Directors shall be at least twenty-one years of age.

3. Notwithstanding any provision of section 238.216 and this section to the contrary, if the petition for formation of the district was filed pursuant to subsection 5 of section 238.207, the following procedures shall be followed:

(1) If the district is comprised of four or more local transportation authorities, the board of directors shall consist of the presiding officer of each local transportation authority within the district. If the district is comprised of two or three local transportation authorities, the board of directors shall consist of the presiding officer of each local transportation authority within the district and one person designated by the governing body of each local transportation authority within the district;

(2) Each director shall be at least twenty-one years of age and a resident or property owner of the local transportation authority the director represents. A director designated by the governing body of a local transportation authority may be removed by such governing body at any time with or without cause; and

(3) Upon the assumption of office of a new presiding officer of a local transportation authority, such individual shall automatically succeed his predecessor as a member of the board of directors. Upon the removal, resignation or disqualification of a director designated by the governing body of a local transportation authority, such governing body shall designate a successor director.

4. The commission shall appoint one or more advisors to the board, who shall have no vote but shall have the authority to participate in all board meetings and discussions, whether open or closed, and shall have access to all records of the district and its board of directors.

5. If the proposed project is not intended to be merged into the state highways and transportation system under the commission's jurisdiction, the local transportation authority that will assume maintenance of the project shall appoint one or more advisors to the board of directors who shall have the same rights as advisors appointed by the commission.

6. Any county or counties located wholly or partially within the district which is not a "local transportation authority" pursuant to subdivision (4) of subsection 1 of section 238.202 may appoint one or more advisors to the board who shall have the same rights as advisors appointed by the commission.

238.225. PROJECTS, SUBMISSION OF PLANS TO COMMISSION, APPROVAL — SUBMISSION TO LOCAL TRANSPORTATION AUTHORITY, WHEN. — 1. Before construction or funding of any project, the district shall submit the proposed project, **[**together with the proposed plans and specifications,**]** to the commission for its prior approval **[**of the project**]**. If the commission by minute finds that the project will improve or is a necessary or desirable extension of the state highways and transportation system, the commission may **preliminarily** approve the project subject to the district **providing plans and specifications for the proposed project and** making any revisions in the plans and specifications required by the commission and the district and commission entering into a mutually satisfactory agreement regarding development and future maintenance of the project. **After such preliminary approval, the district may impose and collect such taxes and assessments as may be included in the commission's preliminary approval.** After the commission approves the final construction plans and specifications, the district shall obtain prior commission approval of any modification of such plans or specifications.

2. If the proposed project is not intended to be merged into the state highways and transportation system under the commission's jurisdiction, the district shall also submit the proposed project and proposed plans and specifications to the local transportation authority that will become the owner of the project for its prior approval.

3. In those instances where a local transportation authority is required to approve a project and the commission determines that it has no direct interest in that project, the commission may decline to consider the project. Approval of the project shall then vest exclusively with the local

transportation authority subject to the district making any revisions in the plans and specifications required by the local transportation authority and the district and the local transportation authority entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After the local transportation authority approves the final construction plans and specifications, the district shall obtain prior approval of the local transportation authority before modifying such plans or specifications.

238.230. SPECIAL ASSESSMENTS, VOTE REQUIRED — ELECTION, BALLOT FORM — PETITION FORM — EFFECT OF FAILURE OF QUESTION. — 1. If approved by:

(1) A majority of the qualified voters voting on the question in the district; or

(2) The owners of record of all of the real property located within the district who shall indicate their approval by signing a special assessment petition;

the district may make one or more special assessments for those project improvements which specially benefit the properties within the district. Improvements which may confer special benefits within a district include but are not limited to improvements which are intended primarily to serve traffic originating or ending within the district, to reduce local traffic congestion or circuity of travel, or to improve the safety of motorists or pedestrians within the district.

2. The ballot question shall be substantially in the following form:

Shall the ..... Transportation Development District be authorized to levy special assessments against property benefited within the district for the purpose of providing revenue for the development of a project (or projects) in the district (insert general description of the project or projects, if necessary), said special assessments to be levied ratably against each tract, lot or parcel of property within the district which is benefited by such project in proportion to the (insert method of allocating special assessments), in an amount not to exceed $ ..... per annum per (insert unit of measurement)?

3. The special assessment petition shall be substantially in the following form:

The ..... Transportation Development District shall be authorized to levy special assessments against property benefited within the district for the purpose of providing revenue for the development of a project (or projects) in the district (insert general description of the project or projects, if necessary), said special assessments to be levied pro rata against each tract, lot or parcel or property within the district which is benefited by such project in proportion to the (insert method of allocating special assessments), in an amount not to exceed $..... per annum per (insert unit of measurement).

4. If a proposal for making a special assessment fails, the district board of directors may, with the prior approval of the commission or the local transportation authority which will assume ownership of the completed project, delete from the project any portion which was to be funded by special assessment and which is not otherwise required for project integrity.

5. A district may establish different classes or subclasses of real property within the district for purposes of levying differing rates of special assessments. The levy rate for special assessments may vary for each class or subclass of real property based on the level of benefit derived by each class or subclass from projects funded by the district.

238.275. PROJECTS, TRANSFER TO COMMISSION OR AUTHORITY, WHEN — ABOLISHMENT OF DISTRICT, PROCEDURES, DUTIES. — 1. Within six months after development and initial maintenance costs of its completed project have been paid, the district shall pursuant to contract transfer ownership and control of the project to the commission or a local transportation authority which shall be responsible for all future maintenance costs pursuant to contract. **Such transfer may be made sooner with the consent of the recipient.**

2. At such time as a district has completed its project and has transferred ownership of the project to the commission or other local transportation authority for maintenance, or at such time as the board determines that it is unable to complete its project due to lack of funding or for any

other reason, the board shall submit for a vote in an election held throughout the district the question of whether the district should be abolished. The question shall be submitted in substantially the following form:

Shall the ..... Transportation Development District be abolished?

3. The district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, while the district liabilities exceed its assets, or while the district is insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior to submitting the question to abolish the district to a vote, the state auditor shall audit the district to determine the financial status of the district, and whether the district may be abolished pursuant to law.

4. While the district still exists, it shall continue to accrue all revenues to which it is entitled at law.

5. Upon receipt of certification by the appropriate election authorities that the majority of those voting within the district have voted to abolish the district, and if the state auditor has determined that the district's financial condition is such that it may be abolished pursuant to law, then the board shall:

(1) Sell any remaining district real or personal property it wishes, and then transfer the proceeds and any other real or personal property owned by the district, including revenues due and owing the district, to the commission or any appropriate local transportation authority assuming maintenance and control of the project, for its further use and disposition;

(2) Terminate the employment of any remaining district employees, and otherwise conclude its affairs;

(3) At a public meeting of the district, declare by a majority vote that the district has been abolished effective that date; and

(4) Cause copies of that resolution under seal to be filed with the secretary of state, the director of revenue, the commission, and with each local transportation authority affected by the district. Upon the completion of the final act specified in this subsection, the legal existence of the district shall cease.

246.005. EXTENSION OF TIME OF CORPORATE EXISTENCE — REINSTATEMENT PERIOD FOR CERTAIN DISTRICTS. — 1. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, which has, prior to April 8, 1994, been granted an extension of the time of corporate existence by the circuit court having jurisdiction, shall be deemed to have fully complied with all provisions of law relating to such extensions, including the time within which application for the extension must be made, unless, for good cause shown, the circuit court shall set aside such extension within ninety days after April 8, 1994.

2. Notwithstanding any other provision of law, any drainage district, any levee district, or any drainage and levee district organized under the provisions of sections 242.010 to 242.690, RSMo, or sections 245.010 to 245.280, RSMo, shall have **[**five**]** **ten** years after the lapse of the corporate charter in which to reinstate and extend the time of the corporate existence by the circuit court having jurisdiction, and such circuit court judgment entry and order shall be deemed to have fully complied with all provisions of law relating to such extensions.

247.060. BOARD OF DIRECTORS — POWERS — QUALIFICATIONS — APPOINTMENT — TERMS — VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE. — 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided, who shall serve without pay. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his election. A member shall be at least twenty-five years of age and shall not be delinquent in the

payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person, who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in June, two shall serve until the first Tuesday after the first Monday in June on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in June on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

260.830. LANDFILL FEE AUTHORIZED, COUNTIES OF THIRD AND FOURTH CLASSIFICATION — APPROVAL, BALLOT, LIMITATION. — 1. Any county of the third classification or any county of the second classification with more than forty-eight thousand two hundred but less than forty-eight thousand three hundred inhabitants or any county of the fourth classification with more than forty-eight thousand two hundred but less than forty-eight thousand three hundred inhabitants may **or any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants**, by a majority vote of its governing body, impose a landfill fee pursuant to this section and section 260.831, for the benefit of the county. No order or ordinance enacted pursuant to the authority granted by this section shall be effective unless the governing body of the county submits to the qualified voters of the county, at a public election, a proposal to authorize the governing body of the county to impose a fee under the provisions of this section. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a landfill fee of ..... (insert amount of fee per ton or volumetric equivalent of solid waste)?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order or ordinance and any amendments thereto shall become effective on the first day of the calendar quarter immediately after such election results are certified. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the fee authorized by this section unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose such fee, and the proposal is approved by a majority of the qualified voters voting thereon. If an economic development authority does not exist in a county at the time that a landfill fee is adopted by such county under this section, then the governing body of such county shall establish an economic development authority in the county.

2. The landfill fee authorized by such an election may not exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted, which charge may be in addition to any such fee currently imposed pursuant to the provisions of section 260.330.

260.831. COLLECTION OF FEE BY OPERATOR, PAYMENT REQUIRED — SEPARATE SURCHARGE, TRANSMITTAL OF FUNDS. — 1. Each operator of a solid waste sanitary or demolition landfill in any county wherein a landfill fee has been approved by the voters pursuant to section 260.830 shall collect a charge equal to the charge authorized by the voters in such election, not to exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be collected in addition to any fee authorized or imposed pursuant to the provisions of section 260.330, and shall be paid to such operator by all political subdivisions, municipalities, corporations, entities or persons disposing of solid waste or demolition waste, whether pursuant to contract or otherwise, and notwithstanding that any such contract may provide for collection, transportation and disposal of such waste at a fixed fee. Any such contract providing for collections, transportation and disposal of such waste at a fixed fee which is in force on August 28, **[**2003**] 2007**, shall be renegotiated by the parties to the contract to include the additional fee imposed by this section. Each such operator shall submit the charge, less collection costs, to the governing body of the county, which shall dedicate such funds for use by the industrial development authority within the county and such funds shall be used by the county commission or authority for economic development within the county. Collection costs shall be the same as established by the department of natural resources pursuant to section 260.330, and shall not exceed two percent of the amount collected pursuant to this section.

2. The charges established in this section shall be enumerated separately from any disposal fee charged by the landfill. After January 1, 1994, the fee authorized under section 260.830 and this section shall be stated as a separate surcharge on each individual solid waste collection customer's invoice and shall also indicate whether the county commission or economic development authority receives the funds. Moneys transmitted to the governing body of the county shall be no less than the amount collected less collection costs and in a form, manner and frequency as the governing body may prescribe. Failure to collect such charge shall not relieve the operator from responsibility for transmitting an amount equal to the charge to the governing body.

302.010. DEFINITIONS. — Except where otherwise provided, when used in this chapter, the following words and phrases mean:

(1) "Circuit court", each circuit court in the state;

(2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;

(3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;

(4) "Director", the director of revenue acting directly or through the director's authorized officers and agents;

(5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

(6) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;

(7) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has

been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;

(8) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;

(9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180, RSMo;

(10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010, RSMo;

(11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

(12) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

(13) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;

(14) "Nonresident", every person who is not a resident of this state;

(15) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;

(16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of sections 302.010 to 302.540;

(17) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;

(18) **"Residence address", residence, or resident address shall be the location at which a person has been physically present, and that the person regards as home. A residence address is a person's true, fixed, principal, and permanent home, to which a person intends to return and remain, even though currently residing elsewhere;**

(19) "Restricted driving privilege", a driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program;

[(19)**]** **(20)** "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

[(20)**]** **(21)** "School bus operator", an operator who operates a school bus as defined in subdivision **[**(19)**]** **(20)** of this section in the transportation of any schoolchildren and who receives compensation for such service. The term "school bus operator" shall not include any person who transports schoolchildren as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

[(21)**]** **(22)** "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

[(22)**]** **(23)** "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 13 of section 302.304 and subsections 1 and 5 of section 302.540;

[(23)**]** **(24)** "Vehicle", any mechanical device on wheels, designed primarily for use, or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.

320.097. RESIDENCY REQUIREMENTS PROHIBITED — FORFEITURE OF A PORTION OF SALARY AS OFFSET, BALLOT LANGUAGE. — 1. As used in this section, "fire department" means any agency or organization that provides fire suppression and related activities, including but not limited to fire prevention, rescue, emergency medical services, hazardous material response, dispatching, or special operations to a population within a fixed and legally recorded geographical area.

2. Upon approval of the board of aldermen, no employee of a fire department shall, as a condition of employment, be required to reside within a fixed and legally recorded geographical area of the fire department if the only public school district available to the employee within such fire department's geographical area is a public school district that is or has been unaccredited or provisionally accredited in the last five years of such employee's employment. No charter school shall be deemed a public school for purposes of this section.

3. No employee of a fire department who has not resided in such fire department's fixed and legally recorded geographical area, or who has changed such employee's residency because of conditions described in subsection 2 of this section, shall as a condition of employment be required to reside within the fixed and legally recorded geographical area of the fire department if such school district subsequently becomes fully accredited.

4. Unless the voters of a city not within a county vote to supersede this section by the same majority needed to change the charter of said city by September 1, 2008, this section shall be in force for the city not within a county. In addition, any employee who resides outside the city will forfeit one percent of his or her salary for the time the employee is not living in the city to offset any lost revenue to the city.

5. The ballot of submission for this authorization shall be in substantially the following form:

Shall ..... (insert name of city) be allowed to prevent fire department employees from paying one percent of their salaries to the city in order to reside outside the city limits when the public school system is or has been unaccredited or provisionally accredited?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES"> If you are opposed to the question, place an "X" in the box opposite "NO".

320.106. DEFINITIONS. — As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:

(1) "American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;

(2) "Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;

(3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;

(4) "Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

(5) **"Dispenser", a device designed for the measurement and delivery of liquids as fuel;**

(6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;

[(6)**]** **(7)** "Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;

[(7)**]** **(8)** "Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;

[(8)**]** **(9)** "Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations, and American Pyrotechnics Association 87-1 standards;

[(9)**]** **(10)** "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;

[(10)**]** **(11)** "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;

[(11)**]** **(12)** "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

[(12)**]** **(13)** "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

[(13)**]** **(14)** "NFPA", National Fire Protection Association, an international codes and standards organization;

[(14)**]** **(15)** "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;

[(15)**]** **(16)** "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

[(16)**]** **(17)** "Person", any corporation, association, partnership or individual or group thereof;

[(17)**]** **(18)** "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as defined by the most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical pyrotechnics;

[(18)**]** **(19)** "Pyrotechnic operator" or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

[(19)**]** **(20)** "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

[(20)**]** **(21)** "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision (9) of this section;

[(21)**]** **(22)** "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

320.146. DISPLAY AND STORAGE OF FIREWORKS, RESTRICTIONS ON. — 1. It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS — NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.

2. Fireworks shall not be **manufactured,** stored, kept or sold within fifty feet of any **[**gasoline pump, gasoline filling station**]** **motor vehicle fuel dispensing station dispenser, retail propane dispensing station dispenser, compressed natural gas dispensing station dispenser**, gasoline **or propane** bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.

3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any other open flame within twenty-five feet of where fireworks are manufactured, stored, kept, or offered for sale.

[4. Fireworks shall not be manufactured, stored, kept or sold within one hundred feet of any dispensing unit for ignitable liquids or gases.**]**

320.200. DEFINITIONS. — As used in sections 320.200 to **[**320.270**]** **320.271**, unless the context requires otherwise, the following terms mean:

(1) "Division", the division of fire safety created in section 320.202;

(2) "Dwelling unit", one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities;

(3) **"Fire department", an agency or organization that provides fire suppression and related activities, including but not limited to, fire prevention, rescue, emergency medical services, hazardous material response, or special operation to a population within a fixed**

and legally recorded geographical area. The term "fire department" shall include any municipal fire department or any fire protection district as defined in section 321.010, RSMo, or voluntary fire protection association as defined in section 320.300, engaging in this type of activity;

(4) "Fire loss", loss of or damage to property, or the loss of life or of personal injury, by fire, lightning, or explosion;

[(4)**] (5)** "Investigator", the supervising investigators and investigators appointed under sections 320.200 to 320.270;

[(5)**] (6)** "Owner", any person who owns, occupies, or has charge of any property;

[(6)**] (7)** "Privately occupied dwelling", a building occupied exclusively for residential purposes and having not more than two dwelling units;

[(7)**] (8)** "Property", property of all types, both real and personal, movable and immovable;

[(8)**] (9)** "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270.

320.271. INFORMATION TO BE FILED WITH FIRE MARSHAL, BY CERTAIN FIRE PROTECTION ORGANIZATIONS — WHEN — IDENTIFICATION NUMBERS. — All fire protection districts, fire departments, and all volunteer fire protection associations as defined in section 320.300 shall **complete and** file with the state fire marshal within sixty days after **[**August 13, 1988**] January 1, 2008**, and annually thereafter, **[**the name and address of the fire protection district, fire department, or volunteer fire protection association.**] a fire department registration form provided by the state fire marshal. The state fire marshal may issue a fire department identification number to each registered fire protection district, fire department, or volunteer fire protection association based upon such registration. The state fire marshal may conduct periodic reviews of the information provided on each fire department registration form, and may deny or revoke a fire department identification number based upon the information provided.**

320.310. BOUNDARIES, FILING WITH COUNTY — SOLE PROVIDERS, WHEN. — 1. All volunteer fire protection associations **[**may**] as defined in section 320.300 shall** identify the association's boundaries and file the same with the county administrative body**.**

2. Except as provided in section 320.090 and section 44.090, RSMo, and except for state agencies that engage in fire suppression and related activities, those fire protection districts, municipal fire departments, and volunteer fire protection associations, as defined in section 320.300, shall be the sole provider of fire suppression and related activities. For the purposes of this subsection, the term "related activities" shall mean only fire prevention, rescue, hazardous material response, or special operation within their legally defined boundaries.

3. Only upon approval by the governing body of a municipal fire department, fire protection district, or volunteer fire association registered with the office of the state fire marshal, as required by section 320.271, shall any other association, organization, group, or political subdivision be authorized to provide the fire suppression response and related activities referenced in subsection 2 of this section within the legally defined boundaries of any municipal fire department, fire protection district, or volunteer fire association.

4. Any such association, group, or political subdivision denied approval to operate within the established boundaries of a fire department or volunteer fire association may appeal that decision within thirty days of the decision to the circuit court having jurisdiction for a trial de novo.

5. Notwithstanding the provisions of subsections 2 and 3 of this section, ambulance services and districts which are or will be licensed, formed, or operated under chapter 190, RSMo, may provide emergency medical services and nonemergency medical transport within the geographic boundaries of a fire department. Nothing in this section shall

supersede the provisions set forth in section 67.300, RSMo, chapter 190, RSMo, or chapter 321, RSMo.

321.130. DIRECTORS, QUALIFICATIONS — CANDIDATE FILING FEE, OATH. — 1. A person, to be qualified to serve as a director, shall be a voter of the district at least one year before the election or appointment and be over the age of twenty-five years; except as provided in subsections 2 and 3 of this section. **The person shall also be a resident of such fire protection district. In the event the person is no longer a resident of the district, the person's office shall be vacated, and the vacancy shall be filled as provided in section 321.200.** Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection district by paying a ten dollar filing fee and filing a statement under oath that such person possesses the required qualifications.

2. In any fire protection district located in more than one county one of which is a first class county without a charter form of government having a population of more than one hundred ninety-eight thousand and not adjoining any other first class county or located wholly within a first class county as described herein, a resident shall have been a resident of the district for more than one year to be qualified to serve as a director.

3. In any fire protection district located in a county of the third or fourth classification, a person to be qualified to serve as a director shall be over the age of twenty-five years and shall be a voter of the district for more than one year before the election or appointment, except that for the first board of directors in such district, a person need only be a voter of the district for one year before the election or appointment.

4. A person desiring to become a candidate for the first board of directors of the proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and shall file with the election authority a statement under oath that such person possesses all of the qualifications set out in this chapter for a director of a fire protection district. Thereafter, such candidate shall have the candidate's name placed on the ballot as a candidate for director.

321.162. EDUCATIONAL TRAINING REQUIRED FOR BOARD OF DIRECTORS. — 1. All members of the board of directors of a fire protection district first elected on or after January 1, 2008, shall attend and complete an educational seminar or conference or other suitable training on the role and duties of a board member of a fire protection district. The training required under this section shall be conducted by an entity approved by the office of the state fire marshal. The office of the state fire marshal shall determine the content of the training to fulfill the requirements of this section. Such training shall include, at a minimum:

(1) Information relating to the roles and duties of a fire protection district director;
(2) A review of all state statutes and regulations relevant to fire protection districts;
(3) State ethics laws;
(4) State sunshine laws, chapter 610, RSMo;
(5) Financial and fiduciary responsibility;
(6) State laws relating to the setting of tax rates; and
(7) State laws relating to revenue limitations.

2. If any fire protection district board member fails to attend a training session within twelve months after taking office, the board member shall not be compensated for attendance at meetings thereafter until the board member has completed such training session.

321.688. CONSOLIDATION OF DISTRICTS — BALLOT LANGUAGE — EFFECT OF. — 1. The board of directors of any fire protection districts located wholly within any county of the first classification may consolidate with each other upon the passage of a joint resolution by each board desiring to consolidate. The joint resolution shall not become

effective unless each board submits to the voters residing within the fire protection districts at a state general, primary, or special election a proposal to authorize the consolidation under this section.

2. The ballot of submission for the consolidation authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the fire protection districts) be consolidated into one fire protection district, to be known as the ..... (insert name of proposed consolidated fire protection district)?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon in each existing fire protection district are in favor of the question, then the consolidation shall become effective on January first of the year immediately following the approval of the consolidation, unless the consolidation is approved at a November election, in which case the consolidation shall become effective on January first of the second year following the approval of the consolidation.

3. The board of directors of any consolidated fire protection district created under this section shall consist of the existing board members of the fire protection districts that were consolidated. Upon the occurrence of a vacancy in the membership of the board, the number of members on the board may be reduced upon approval by a majority of the remaining board members, but the number of seats shall not be reduced to fewer than five. The terms of office for board members shall be identical to the terms of office the board members were originally elected to serve before the consolidation.

4. Upon the approval of consolidation under this section, the consolidated district shall be a political subdivision of this state and a body corporate, with all the powers of like or similar corporations, and with all the powers, privileges, and duties of fire protection districts under this chapter. All properties, rights, assets, and liabilities of the fire protection districts which are consolidated, including outstanding bonds thereof if any, shall become the properties, rights, assets, and liabilities of the consolidated fire protection district.

5. The consolidated fire protection district shall levy the same taxes as levied in the fire protection district with the lowest tax levy before the consolidation unless a tax levy is specifically set forth in the ballot language approved by the voters of the consolidating districts, except that the tax levy of the consolidated district shall not exceed the highest tax levy of the consolidating districts.

392.410. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, EXCEPTION — CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY, REQUIRED WHEN — DURATION OF CERTIFICATES — TEMPORARY CERTIFICATES, ISSUED WHEN — POLITICAL SUBDIVISIONS RESTRICTED FROM PROVIDING CERTAIN TELECOMMUNICATIONS SERVICES OR FACILITIES, EXPIRATION DATE. — 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter

until a certificate of service authority is granted or denied by the commission so long as the telecommunications company applies for a certificate of service authority within ninety days from September 28, 1987.

2. No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

3. No certificate of service authority issued by the commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate of service authority to any telecommunications company shall not preclude the commission from issuing additional certificates of service authority to another telecommunications company providing the same or equivalent service or serving the same geographical area or customers as any previously certified company, except to the extent otherwise provided by section 392.450.

4. Any certificate of public convenience and necessity granted by the commission to a telecommunications company prior to September 28, 1987, shall remain in full force and effect unless modified by the commission, and such companies need not apply for a certificate of service authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, shall apply for a certificate of service authority for such alterations or additions pursuant to the provisions of this section.

5. The commission may review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications company prior to September 28, 1987, in order to ensure its conformity with the requirements and policies of this chapter. Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected. Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

6. The commission may issue a temporary certificate which shall remain in force not to exceed one year to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a certificate.

7. No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing to telecommunications providers, within the geographic area in which it lawfully operates as a municipal utility, telecommunications services or telecommunications facilities on a nondiscriminatory, competitively neutral basis, and at a price which covers cost, including imputed costs that the political subdivision would incur if it were a for-profit business. Nothing in this subsection shall restrict a political subdivision from providing telecommunications services or facilities:

(1) For its own use;

(2) For 911, E-911 or other emergency services;

(3) For medical or educational purposes;

(4) To students by an educational institution; or

(5) Internet-type services.

[The provisions of this subsection shall expire on August 28, 2007.]

8. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

393.705. DEFINITIONS. — As used in sections 393.700 to 393.770, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770;

(2) "Commission", any joint municipal utility commission established by a joint contract pursuant to sections 393.700 to 393.770;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission pursuant to sections 393.700 to 393.770, a water supply district formed pursuant to the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more of the following contracting entities for the purpose of establishing a commission:

(a) Municipalities;

(b) Public water supply districts;

(c) Sewer districts;

(d) Nonprofit water companies; [or]

(e) Nonprofit sewer companies;

(f) Joint municipal utility commissions;

(5) "Participating municipality", a municipality, public water supply district, or sewer district acting in concert with a commission in the development of a project but providing separate financing to acquire an individual interest in the project;

(6) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing pursuant to the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of any state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

(7) "Project", the purchasing, construction, extending or improving of any utility facility or property including without limitation revenue-producing water, sewage, gas or electric light works, heating or power plants, transmission and distribution systems, and all other types of utilities and revenue-producing facilities as deemed appropriate by the governing bodies of the contracting or participating municipalities, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.710. MUNICIPALITIES, PUBLIC WATER SUPPLY DISTRICTS AND SEWER DISTRICTS MAY FORM COMMISSION — PURPOSES — CONTENTS OF CONTRACT — BOARD OF DIRECTORS. — 1. Municipalities, **joint municipal utility commissions,** public water supply districts, and sewer districts may, by joint contract, establish a governmental entity to be known as a joint municipal utility commission, to effect the joint development of a project or projects in whole or in part for the benefit of the inhabitants of such municipalities, public water supply districts and sewer districts.

2. Any joint contract establishing a commission under this section shall specify:

(1) The name and purpose of the commission and the functions or services to be provided by the commission;

(2) The establishment and organization of a governing body of a commission which shall be a board of directors in which all powers of the commission are vested. The joint contract may provide for the creation by the board of an executive committee of the board to which the powers and duties of the board may be delegated as the board or state statute shall specify;

(3) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality, public water supply district, and sewer district shall have the power to appoint one member and an alternate to the board of directors and shall be entitled to remove that member and alternate at will;

(4) The manner of selection of the officers of the commission and their duties;

(5) The voting requirements for action by the board, but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the board;

(6) The duties of the board which shall include the obligation to comply or to cause compliance with this section and the laws of the state and, in addition, with each and every term, provision and covenant in the joint contract creating the commission on its part to be kept or performed;

(7) The manner in which additional municipalities, public water supply districts, and sewer districts may become parties to the joint contract;

(8) The manner of financing the commission and of establishing and maintaining a budget and annual audit for the commission;

(9) The ownership interests of the contracting municipality electric cooperative associations, municipally owned or public utilities in a project or the manner of determining such ownership interest, which ownership interest shall be subject to any mortgage of a project pursuant to section 393.735;

(10) Provisions for the disposition, division or distribution of any property or assets of the commission on dissolution; and

(11) The term of the joint contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the joint contract may be rescinded or terminated so long as the commission has no bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

3. A commission shall, if the joint contract so provides, be the successor to any nonprofit corporation, agency, or another entity theretofore organized by the contracting municipalities to provide the same function, service or facility, and the commission shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

393.715. POWERS OF COMMISSION — PURCHASE OF PRIVATE WATER UTILITY SERVING OUTSIDE MUNICIPAL LIMITS, EFFECT — SUCCESSORSHIP, CONTINUED AND NEW SERVICE AUTHORIZED, WHEN. — 1. The general powers of a commission to the extent provided in section 393.710 to be exercised for the benefit of its contracting members shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect,

own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has obtained the approval of the public service commission prior to commencing such said sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

(7) Employ agents and employees;

(8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors or executive committee shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

(9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms and for such period of time as its board of directors or executive committee shall determine. A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 or 3 of this section;

(10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

(11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

(12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

(13) Sue and be sued in its own name;

(14) Have and use a corporate seal;

(15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission**. The powers enumerated in this subdivision shall constitute the power to tax for purposes of article X, section 15 of the Missouri Constitution**;

(16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

(17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

(18) Join organizations, membership in which is deemed by the board of directors or its executive committee to be beneficial to accomplishment of the commission's purposes;

(19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

(20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

3. When a commission created by any of the contracting entities listed in subdivision (4) of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer corporation or other nonprofit agency or entity organized to provide water or sewer service, the commission may continue to serve, as well as provide new service to, those locations and areas previously receiving water or sewer service from such nonprofit entity, regardless of whether or not such location receives such service outside the geographical service area of the contracting entities forming such commission; provided that such locations and areas previously receiving water and sewer service from such nonprofit entity are not located within:

(1) Any county of the first classification with a population of more than six hundred thousand and less than nine hundred thousand;

(2) The boundaries of any sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution; or

(3) The certificated area of a water or sewer corporation that is subject to the jurisdiction of the public service commission.

393.720. COMMISSIONS TO BE BODIES PUBLIC AND CORPORATE. — Any commission established by joint contract under sections 393.700 to 393.770 shall constitute a body public and corporate of the state, exercising public powers for the benefit of its contracting members and in order to carry out the public purposes and the public functions of its contracting members. It shall have the duties, privileges, immunities, rights, liabilities and disabilities of its contracting members and as a public body politic and corporate**, including the power to tax,** but shall not have **any additional** taxing power separate from that of its members nor shall it have the benefit of the doctrine of sovereign immunity.

393.740. CERTAIN TAXES APPLICABLE. — 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

2. All property, real and tangible personal, except for properties acquired exclusively for water supply districts **and water supply commissions**, acquired by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to taxation for state, county, and municipal and other local purposes only to the same extent as if such property was owned directly by each contracting or participating municipality in such proportion or manner as specified by contract among all contracting or participating

municipalities party to a project or if not specified in proportion to the percentage of each municipality's interest or participation in the facility or property.

393.825. NONPROFIT SEWER COMPANIES, WHO MAY ORGANIZE — ARTICLES OF INCORPORATION, CONTENTS, SUBMISSION TO SECRETARY OF STATE. — 1. Nonprofit, membership corporations may be organized under sections 393.825 to 393.861 and section 393.175 only for the purpose of supplying wastewater disposal and treatment services within the state of Missouri. Corporations which become subject to sections 393.825 to 393.861 and section 393.175 in the manner herein provided are herein referred to as "nonprofit sewer companies". Five or more persons may organize a nonprofit sewer company pursuant to sections 393.825 to 393.861 and section 393.175.

2. The articles of incorporation of a nonprofit sewer company shall recite in the caption that they are executed pursuant to sections 393.825 to 393.861 and section 393.175, shall be signed and acknowledged in duplicate by at least five of the incorporators and shall state:

(1) The name of the company;

(2) The address of its principal office;

(3) The names and addresses of the incorporators;

(4) The number of years the company is to continue, which may be any number including perpetuity;

(5) The names and addresses of the persons who shall constitute its first board of directors;

(6) Whether the company chooses to operate under the provisions of chapter 347, RSMo, or chapter 355, RSMo; and

(7) Any provisions not inconsistent with sections 393.825 to 393.861 and section 393.175 deemed necessary or advisable for the conduct of its business and affairs. Such articles of incorporation shall be submitted to the secretary of state for filing.

3. (1) Prior to obtaining a permit to provide service, a nonprofit sewer company shall provide a copy of the articles of incorporation and company bylaws to the department of natural resources to ensure compliance with all statutory requirements. The department shall review the documents and provide the nonprofit sewer company authorization to provide service if all statutory requirements are met. If all statutory requirements have not been met, the department shall inform the nonprofit sewer company of all deficiencies and assist such company in curing the deficiencies.

(2) All nonprofit sewer companies shall provide a copy of all subsequent modifications of the articles of incorporation and company bylaws to the department to ensure continued compliance. If statutory requirements are no longer being met, the department shall inform the nonprofit sewer company of all deficiencies and provide a period of thirty days to cure such deficiencies. If such deficiencies are not cured within thirty days, the department may suspend or revoke the nonprofit sewer company's authority to provide service until such time that the deficiencies are cured.

393.847. DEPARTMENT OF NATURAL RESOURCES, JURISDICTION, SUPERVISION, POWERS AND DUTIES — PUBLIC SERVICE COMMISSION JURISDICTION, LIMITATIONS. — 1. Every nonprofit sewer company constructing, maintaining and operating its wastewater lines and treatment facilities shall construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit sewer company and every nonprofit sewer company shall be supervised and regulated by the department of natural resources to the same extent and in the same manner as any other nonprofit corporation engaged in whole or in part in the collection or treatment of wastewater.

2. **Notwithstanding any provision of sections 393.825 to 393.861 to the contrary, a nonprofit sewer company shall not be eligible to obtain a construction or operating permit unless a waiver from all affected political subdivisions is obtained for a site where:**

(1) A municipality, county, public sewer district, or public water supply district operates a wastewater treatment system; or

(2) A connection to a wastewater treatment system is required by a municipal or county ordinance.

3. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.

393.900. NONPROFIT WATER COMPANIES MAY BE ORGANIZED — ARTICLES OF INCORPORATION. — 1. Nonprofit, membership corporations may be organized pursuant to sections 393.900 to 393.951 only for the purpose of supplying water for distribution, wholesale and treatment services within the state of Missouri. Corporations which become subject to sections 393.900 to 393.951 are referred to in sections 393.900 to 393.951 as nonprofit water companies. Five or more persons may organize a nonprofit water company pursuant to sections 393.900 to 393.951.

2. The articles of incorporation of a nonprofit water company shall recite in the caption that they are executed pursuant to sections 393.900 to 393.951, shall be signed and acknowledged in duplicate by at least five of the incorporators and shall state:

(1) The name of the company;

(2) The address of its principal office;

(3) The names and addresses of the incorporators;

(4) The number of years the company is to continue, which may be any number including perpetuity;

(5) The legal description of the territory in which the company intends to operate;

(6) The names and addresses of the persons who shall constitute its first board of directors;

(7) Whether the company chooses to operate pursuant to chapter 347, RSMo, or chapter 355, RSMo;

(8) The method chosen for distributing the assets of the company upon dissolution; and

(9) Any provisions not inconsistent with sections 393.900 to 393.951 deemed necessary or advisable for the conduct of its business and affairs. Such articles of incorporation shall be submitted to the secretary of state for filing.

3. (1) Prior to obtaining a permit to provide service, a nonprofit water company shall provide a copy of the articles of incorporation and company bylaws to the department of natural resources to ensure compliance with all statutory requirements. The department shall review the documents and provide the nonprofit water company authorization to provide service if all statutory requirements are met. If all statutory requirements have not been met, the department shall inform the nonprofit water company of all deficiencies and assist such company in curing the deficiencies.

(2) All nonprofit water companies shall provide a copy of all subsequent modifications of the articles of incorporation and company bylaws to the department to ensure continued compliance. If statutory requirements are no longer being met, the department shall inform the nonprofit water company of all deficiencies and provide a period of thirty days to cure such deficiencies. If such deficiencies are not cured within thirty days, the department may suspend or revoke the nonprofit water company's authority to provide service until such time that the deficiencies are cured.

393.933. COMPLIANCE WITH DEPARTMENT OF NATURAL RESOURCES AND OTHER LAWS — PUBLIC SERVICE COMMISSION NOT TO HAVE JURISDICTION. — 1. Every nonprofit water company constructing, maintaining and operating its water lines and treatment facilities shall

construct, maintain and operate such lines and facilities in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public with other lines and facilities now or hereafter from time to time prescribed by the department of natural resources or by law for the construction, maintenance and operation of such lines or systems. The jurisdiction, supervision, powers and duties of the department of natural resources shall extend to every such nonprofit water company so far as it concerns the construction, maintenance and operation of the physical equipment of such company to the extent of providing for the safety of employees and the general public.

2. **Notwithstanding any provision of sections 393.900 to 393.954 to the contrary, a nonprofit water company shall not be eligible to obtain a construction permit or a permit to dispense unless a waiver from all affected political subdivisions is obtained for a site where:**

(1) A municipality, county, or public water supply district operates a water system; or

(2) A connection to a water system is required by a municipal or county ordinance.

3. The public service commission shall not have jurisdiction over the construction, maintenance or operation of the water facilities, service, rates, financing, accounting or management of any nonprofit water company; except that, the public service commission shall have authority to approve the reorganization of any existing company regulated by the public service commission.

409.107. INVESTMENT FIRMS, LEGAL FIRMS, OTHER PERSONS SHALL NOT BE INVOLVED WITH ISSUANCE OF BONDS, WHEN. — No investment firm, legal firm offering bond counsel services, or any persons having an interest in any such firms shall be involved in **[**any manner in**]** the issuance of bonds authorized by an election in which the firm or person made any **direct or indirect financial** contribution **[**of any kind whatsoever**]** to any campaign in support of the bond election. **For the purposes of this section, direct or indirect financial contribution shall not include services with respect to providing factual information relating to the prospective bond issuance, responding to questions and making presentations at public forums relative to prospective bond issuance, or participation in any meeting subject to the open meetings law.**

432.070. CONTRACTS, EXECUTION OF BY COUNTIES, TOWNS — FORM OF CONTRACT. — No county, city, town, village, school township, school district or other municipal corporation shall make any contract, unless the same shall be within the scope of its powers or be expressly authorized by law, nor unless such contract be made upon a consideration wholly to be performed or executed subsequent to the making of the contract; and such contract, including the consideration, shall be in writing and dated when made, and shall be subscribed by the parties thereto, or their agents authorized by law and duly appointed and authorized in writing. **[**Notwithstanding the foregoing, any home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants which after January 1, 2003, has committed or agreed in writing to provide sewer service or has in fact directly or indirectly provided such service to any homes within a subdivision shall give its customers two years prior written notice of its intent to discontinue service and during such two-year period shall continue to connect and provide sanitary sewer service to all homes constructed in such subdivision. In no event shall any sewer service connected prior to the expiration of such two-year period be discontinued.**]**

451.040. MARRIAGE LICENSE REQUIRED, WAITING PERIOD — APPLICATION, CONTENTS — LICENSE VOID WHEN — COMMON LAW OF MARRIAGES VOID — LACK OF AUTHORITY TO PERFORM MARRIAGE, EFFECT. — 1. Previous to any marriage in this state, a license for that purpose shall be obtained from the officer authorized to issue the same, and no marriage

contracted shall be recognized as valid unless the license has been previously obtained, and unless the marriage is solemnized by a person authorized by law to solemnize marriages.

2. Before applicants for a marriage license shall receive a license, and before the recorder of deeds shall be authorized to issue a license, the parties to the marriage shall present an application for the license, duly executed and signed in the presence of the recorder of deeds or their deputy. Each application for a license shall contain the Social Security number of the applicant, provided that the applicant in fact has a Social Security number, or the applicant shall sign a statement provided by the recorder that the applicant does not have a Social Security number. The Social Security number contained in an application for a marriage license shall be exempt from examination and copying pursuant to section 610.024, RSMo. **[**Upon the expiration of three days**]** After the receipt of the application the recorder of deeds shall issue the license, unless one of the parties withdraws the application. The license shall be void after thirty days from the date of issuance.

3. **[**Provided, however, that such license may be issued on order of a circuit or associate circuit judge of the county in which the license is applied for, without waiting three days, such license being issued only for good cause shown and by reason of such unusual conditions as to make such marriage advisable.

4.**]** Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

[5.**]** **4.** Common-law marriages shall be null and void.

[6.**]** **5.** Provided, however, that no marriage shall be deemed or adjudged invalid, nor shall the validity be in any way affected for want of authority in any person so solemnizing the marriage pursuant to section 451.100, if consummated with the full belief on the part of the persons, so married, or either of them, that they were lawfully joined in marriage.

473.743. DUTY OF PUBLIC ADMINISTRATOR TO TAKE CHARGE OF ESTATES, WHEN. — It shall be the duty of the public administrator to take into his **or her** charge and custody the estates of all deceased persons, and the person and estates of all minors, and the estates or person and estate of all incapacitated persons in his **or her** county, in the following cases:

(1) When a stranger dies intestate in the county without relations, or dies leaving a will, and the personal representative named is absent, or fails to qualify;

(2) When persons die intestate without any known heirs;

(3) When persons unknown die or are found dead in the county;

(4) When money, property, papers or other estate are left in a situation exposed to loss or damage, and no other person administers on the same;

(5) When any estate of any person who dies intestate therein, or elsewhere, is left in the county liable to be injured, wasted or lost, when the intestate does not leave a known husband, widow or heirs in this state;

(6) The persons of all minors under the age of fourteen years, whose parents are dead, and who have no legal guardian or conservator;

(7) The estates of all minors whose parents are dead, or, if living, refuse or neglect to qualify as conservator, or, having qualified have been removed, or are, from any cause, incompetent to act as such conservator, and who have no one authorized by law to take care of and manage their estate;

(8) The estates or person and estate of all disabled or incapacitated persons in his **or her** county who have no legal guardian or conservator, and no one competent to take charge of such estate, or to act as such guardian or conservator, can be found, or is known to the court having jurisdiction, who will qualify;

(9) Where from any other good cause, the court shall order him to take possession of any estate to prevent its being injured, wasted, purloined or lost**;**

(10) When moneys are delivered to the public administrator from the county coroner.

479.010. VIOLATION OF MUNICIPAL ORDINANCES, JURISDICTION. — Violations of municipal ordinances shall be **[**tried**]** **heard and determined** only before divisions of the circuit court as hereinafter provided in this chapter. **"Heard and determined", for purposes of this chapter, shall mean any process under which the court in question retains the final authority to make factual determinations pertaining to allegations of a municipal ordinance violation, including but not limited to the use of a system of administrative adjudication as provided in section 479.011, preliminary to a determination by appeal to the court in question.**

479.011. ADMINISTRATIVE ADJUDICATION OF CERTAIN CODE VIOLATIONS IN ST. LOUIS CITY AND KANSAS CITY — AUTHORIZATION, RULES REQUIREMENTS — TRIBUNAL DESIGNATED BY ORDINANCE, PROCEDURES — EVIDENCE REVIEWED — IMPRISONMENT AND FINES LIMITED — JUDICIAL REVIEW, LIEN IMPOSED, WHEN. — 1. Any city not within a county **or any home rule city with more than four hundred thousand inhabitants and located in more than one county** may establish, by order or ordinance, an administrative system for adjudicating parking and other **civil,** nonmoving municipal code violations consistent with applicable state law. Such administrative adjudication system shall be subject to practice, procedure, and pleading rules established by the state supreme court, circuit court, or municipal court. This section shall not be construed to affect the validity of other administrative adjudication systems authorized by state law and created before August 28, 2004.

2. The order or ordinance creating the administrative adjudication system shall designate the administrative tribunal and its jurisdiction, including the code violations to be reviewed. The administrative tribunal may operate under the supervision of the municipal court, parking commission, or other entity designated by order or ordinance and in a manner consistent with state law. The administrative tribunal shall adopt policies and procedures for administrative hearings, and filing and notification requirements for appeals to the municipal or circuit court, subject to the approval of the municipal or circuit court.

3. The administrative adjudication process authorized in this section shall ensure a fair and impartial review of contested municipal code violations, and shall afford the parties due process of law. The formal rules of evidence shall not apply in any administrative review or hearing authorized in this section. Evidence, including hearsay, may be admitted only if it is the type of evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. The code violation notice, property record, and related documentation in the proper form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The officer who issued the code violation citation need not be present.

4. An administrative tribunal may not impose incarceration or any fine in excess of the amount allowed by law. Any sanction, fine or costs, or part of any fine, other sanction, or costs, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under chapter 536, RSMo, shall be a debt due and owing the city, and may be collected in accordance with applicable law.

5. Any final decision or disposition of a code violation by an administrative tribunal shall constitute a final determination for purposes of judicial review**[**,**]**. **Such determination is** subject to review under chapter 536, RSMo**, or, at the request of the defendant made within ten days, a trial de novo in the circuit court**. After expiration of the judicial review period under chapter 536, RSMo, unless stayed by a court of competent jurisdiction, the administrative tribunal's decisions, findings, rules, and orders may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the manner required by state law or the uniform commercial code, a lien may be imposed on the real or personal property of any defendant entering a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code violation in the amount of any debt due the city under this section and enforced in the same manner as a judgment lien under a judgment of a court of competent jurisdiction.

644.597. BOARD MAY BORROW ADDITIONAL $10,000,000 FOR PURPOSES OF WATER POLLUTION, IMPROVEMENT OF DRINKING WATER, AND STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.598. BOARD MAY BORROW ADDITIONAL $10,000,000 FOR PURPOSES OF RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.599. BOARD MAY BORROW ADDITIONAL $20,000,000 FOR PURPOSES OF STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

650.340. 911 TRAINING AND STANDARDS ACT. — 1. The provisions of this section may be cited and shall be known as the "911 Training and Standards Act".

2. Initial training requirements for telecommunicators who answer 911 calls that come to public safety answering points shall be as follows:

(1) Police telecommunicator. . . . . 16 hours;
(2) Fire telecommunicator. . . . . 16 hours;
(3) Emergency medical services telecommunicator. . . . . 16 hours;
(4) Joint communication center telecommunicator. . . . . 40 hours.

3. All persons employed as a telecommunicator in this state shall be required to complete ongoing training so long as such person engages in the occupation as a telecommunicator. Such persons shall complete at least **[**sixteen**]** **twenty-four** hours of ongoing training every **[**two**]** **three** years by such persons or organizations as provided in subsection 6 of this section. **The reporting period for the ongoing training under this subsection shall run concurrent with the existing continuing education reporting periods for Missouri peace officers pursuant to chapter 590, RSMo.**

4. Any person employed as a telecommunicator on August 28, 1999, shall not be required to complete the training requirement as provided in subsection 2 of this section. Any person hired as a telecommunicator after August 28, 1999, shall complete the training requirements as provided in subsection 2 of this section within twelve months of the date such person is employed as a telecommunicator.

5. The training requirements as provided in subsection 2 of this section shall be waived for any person who furnishes proof to the committee that such person has completed training in another state which are at least as stringent as the training requirements of subsection 2 of this section.

6. The department of public safety shall determine by administrative rule the persons or organizations authorized to conduct the training as required by subsection 2 of this section.

7. This section shall not apply to an emergency medical dispatcher or agency as defined in section 190.100, RSMo, or a person trained by an entity accredited or certified under section 190.131, RSMo, or a person who provides prearrival medical instructions who works for an agency which meets the requirements set forth in section 190.134, RSMo.

SECTION 1. ROGERSVILLE AND SPRINGFIELD TO ABIDE BY AGREEMENT FOR ANNEXATION. — The cities of Rogersville and Springfield shall abide by the terms and conditions of the November 15, 2005, settlement agreement, as amended, relating to involuntary annexation of certain real property located between the two cities.

SECTION 2. CERTAIN TRUCKS NOT TO DRIVE IN FAR LEFT LANE OF CERTAIN INTERSTATE HIGHWAYS (ST. CHARLES AND JEFFERSON COUNTIES). — 1. In any county with a population of more than one hundred eighty thousand inhabitants that adjoins a county with a charter form of government with a population of more than nine hundred thousand inhabitants, all trucks registered for a gross weight of more than twenty-four thousand pounds, as of January 1, 2008, shall not be driven in the far left lane upon an interstate highway having at least three lanes proceeding in the same direction, within three miles of where an interstate highway and a three-digit numbered Missouri route intersects with an average daily traffic count on the interstate highway of at least one hundred thirty thousand vehicles at such point. The Missouri department of transportation shall design, manufacture, and install any informational and directional signs at the appropriate locations. Such restriction shall not apply when:

(1) It is reasonably necessary for the operation of the truck to respond to emergency conditions; or

(2) The right or a center lane of a roadway is closed to traffic while under construction, maintenance, or repair.

2. As used in this section, "truck" means any vehicle, machine, tractor trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways.

3. A violation of this section is an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation is a class A misdemeanor.

SECTION 3. CONVEYANCE OF PROPERTY IN JACKSON COUNTY TO THE CITY OF KANSAS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in the following described real property owned by the state in Jackson County to the city of Kansas City:

Parcel # 12-840-27-08-00-0-00-000
JOHNSON'S SUB OF O T LANDS
BEG 460 W 185' S NE CE S SW 1/4 SE 1/4 TH SW 250' SE
220' NE 250' NW 220' TO POB
Parcel # 12-840-26-02-00-0-00-000
EAST KANSAS
LOT 1 & N 10 FT OF LOT 2 BL K 53
Parcel # 12-840-26-03-00-0-00-000
EAST KANSAS
ALL OF LOT 2 (EX N 10') & ALL OF LOT 3 & N 10' OF LOT
4 BLK 53

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, and the time, place, and terms of the sale.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. POSTING OF INCREASE IN SALES TAX, WHEN. — In each transportation development district in which a sales tax has been imposed or increased under section 238.235, RSMo, every retailer shall prominently display the rate of the sales tax imposed or increased at the cash register area.

SECTION 5. SALES TAX FOR FIRE PROTECTION DISTRICT — BALLOT LANGUAGE — FUND CREATED, USE OF MONEYS (DOUGLAS COUNTY). — 1. In any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but fewer than thirteen thousand one hundred seventy-five inhabitants, the governing body of any fire protection district may impose a sales tax in an amount up to one percent on all retail sales made in such fire protection district which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, provided that such sales tax shall be accompanied by a reduction in the district's tax rate as defined in section 137.073, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the fire protection district submits to the voters of such fire protection district, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the fire protection district to impose a tax pursuant to this section.

2. The ballot of submission shall contain, but need not be limited to, the following language:

"Shall.....(insert name of fire protection district) impose a sales tax of .....(insert amount up to one) percent for the purpose of providing revenues for the operation of the .....(insert name of fire protection district) and the total property lax levy on properties in the .....(insert name of the fire protection district) shall be reduced annually by an amount which reduces property tax revenues by an amount equal to fifty percent of the previous year's revenue collected from this sales tax?

[ ] YES [ ] NO

If you are favor of the question, plan an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"."

3. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect and the governing body of the fire protection district shall lower the level of its tax rate by an amount which reduces property tax revenues by an amount equal to fifty percent of the amount of sales tax collected in the preceding year. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district shall not impose the sales tax authorized in this section unless and until the governing body of such fire protection district resubmits a proposal to authorize the governing body of the fire protection district to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

4. All revenue received by a district from the tax authorized pursuant to this section shall be deposited in two special trust funds, and be used solely for the purposes specified in the proposal submitted pursuant to this section for so long as the tax shall remain in effect.

5. Ninety-five percent of the sales taxes collected by the director of revenue pursuant to this section, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited into the "Ambulance or Fire Protection District Sales Tax Trust Fund" pursuant to section 321.552, RSMo. The remaining five percent of the sales taxes collected by the director of revenue pursuant to this section shall be deposited in a special trust fun, which is hereby created, to be known as the "Distressed Fire Protection District Fund". The moneys in the distressed fire protection district fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and the amount collected in each district imposing a sales tax pursuant to this section, and the records shall be open to inspection by officers of the county and to the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month in equal parts to the governing

body of any fire protection district located within any county with a charter form of government and with more than one million inhabitants, with a median household income of seventy percent or less of the median household income for the county in which such fire protection is located; such funds shall be deposited with the board treasurer of each such district.

6. The director of revenue may make refunds from the amounts in the trust fund and credit any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. If any district abolishes the tax, the district shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

[58.510. MONEY, WHEN AND HOW PAID TO REPRESENTATIVES OF DECEASED. — If the money in the treasury be demanded within five years by the legal representatives of deceased, the treasurer shall pay it to them, after deducting all fees and expenses.**]**

[105.971. ATTEMPT TO INFLUENCE LOCAL GOVERNMENT DECISIONS, DISCLOSURE REQUIRED — FORM — PUBLIC INSPECTION — EXEMPTION — PENALTY. — 1. Any person who for valuable consideration acts in a representative capacity for the purpose of attempting to influence the decisions of any elected official or member of any commission, board, or committee of any city with a population of at least four hundred thousand shall advise the city clerk of his contact with or his intention to contact such official or member for the purpose of attempting to influence the decision of such elected official or member within ten working days of such contact.

2. The requirements of subsection 1 of this section shall be satisfied by sending a letter to the clerk of such city, containing the person's name and business address; the name and address of the person, business, association, partnership or corporation for whom he is attempting to obtain a decision and the department of city government which he is attempting to influence.

3. The city clerk shall, upon receipt, make such letters open for public inspection during normal business hours.

4. Representatives of the news media engaged in the exercise or expression of any editorial opinion are exempt from this section.

5. Violation of this section is an infraction.**]**

Approved July 13, 2007

SB 25 [CCS HCS SB 25]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits closing a child abuse investigation if the child dies during the course of the investigation

AN ACT to repeal sections 210.145, 210.183, 210.566, 452.340, 454.390, 454.440, 454.455, 454.460, 454.470, 454.480, 454.496, 454.511, 454.810, and 511.350, RSMo, and to enact in lieu thereof twelve new sections relating to children and minors, with penalty provisions.

SECTION
A. Enacting clause.
210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
210.183. Alleged perpetrator to be provided written description of investigation process.
210.566. Foster parents' bill of rights.
452.340. Child support, how allocated — factors to be considered — abatement or termination of support, when — support after age eighteen, when — public policy of state — payments may be made directly to child, when — child support guidelines, rebuttable presumption, use of guidelines, when — retroactivity — obligation terminated, how.
454.390. Enforcing a support order from another state, response to a request, contents of the request.
454.440. Definitions — child support enforcement may use parent locator service, when — financial entities to provide information, when, penalty for refusal, immunity — statement of absent parents, contents — prohibited acts, penalties — confidentiality of records, exceptions, penalties.
454.455. Assignments by caretaker relatives, terminate, when, exceptions — caretaker relative defined.
454.460. Definitions.
454.470. Director to issue notice and finding of financial responsibility, when, procedure, contents — computation of periodic future support — hearing, when, failure of parent to request, result.
454.496. Motion to modify order, review — form of motion, service, procedure — effective, when — venue for judicial review of administrative order, procedure.
454.511. Denial of a passport for child support arrearage, when — mistake of fact, defined.
511.350. Liens on real estate established by judgment or decrees in courts of record, exception — associate circuit court, procedure required — no administrative amendments.
454.480. Minimum support obligations, formula for establishing.
454.810. Determination of arrearages and credits, certain cases, procedure — hearings — filing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.145, 210.183, 210.566, 452.340, 454.390, 454.440, 454.455, 454.460, 454.470, 454.480, 454.496, 454.511, 454.810, and 511.350, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 210.145, 210.183, 210.566, 452.340, 454.390, 454.440, 454.455, 454.460, 454.470, 454.496, 454.511, and 511.350, to read as follows:

210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury

to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

4. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation and provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

5. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. If the abuse is alleged to have occurred in a school or child-care facility the division shall not meet with the child in any school building or child-care facility building where abuse of such child is alleged to have occurred. When the child is reported absent from the residence, the location and the well-being of the child shall be verified. For purposes of this subsection, "child-care facility" shall have the same meaning as such term is defined in section 210.201.

6. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

7. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

8. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

9. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

10. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

11. For all family support team meetings involving an alleged victim of child abuse or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

12. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

13. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109

to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

14. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. **If a child involved in a pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed.** If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

15. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. Such person may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the reporter within five days of the outcome of the investigation. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

16. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

(1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; and

(2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.

17. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

18. The children's division is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

19. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.183. ALLEGED PERPETRATOR TO BE PROVIDED WRITTEN DESCRIPTION OF INVESTIGATION PROCESS. — 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the Children's Division pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

This investigation is required by law to be conducted in order to enable the Children's Division to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services.

The division shall make every reasonable attempt to complete the investigation within thirty days**, except if a child involved in the pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed**. **Otherwise,** within ninety days you will receive a letter from the Division which will inform you of one of the following:

(1) That the Division has found insufficient evidence of abuse or neglect; or

(2) That there appears to be by a preponderance of the evidence reason to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

If the Division finds by a preponderance of the evidence reason to believe child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

If you disagree with the determination of the Division and feel that there is insufficient reason to believe by a preponderance of the evidence that abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the Division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the Division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the parent of the child with the following information:

(1) The purpose of the contact with the family;

(2) The name of the person responding and his or her office telephone number;

(3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

210.566. FOSTER PARENTS' BILL OF RIGHTS. — 1. **(1)** The **children's** division **[**of family services**]** and its contractors**, recognizing that foster parents are not clients but rather are colleagues in the child welfare team,** shall treat foster parents **[**with courtesy, respect and consideration**] in a manner consistent with the National Association of Social Workers' ethical standards of conduct as described in its Social Workers' Ethical Responsibilities to Colleagues**. Foster parents shall treat the children in their care, the child's birth family and members of the child welfare team **[**with courtesy, respect and consideration**] in a manner consistent with their ethical responsibilities as professional team members**.

(2) The children's division and its contractors shall provide written notification of the rights enumerated in this section at the time of initial licensure and at the time of each licensure renewal following the initial licensure period.

2. (1) The **children's** division **[**of family services**]** and its contractors shall provide foster parents with **regularly scheduled opportunities for preservice** training, **[**preservice**]** and **regularly scheduled opportunities for pertinent** inservice**[**, and support**]** **training, as determined by the Missouri State Foster Care and Adoption Advisory Board**.

(2) The **children's** division **[**of family services**]** and its contractors shall **[**share**]** **provide to foster parents and potential adoptive parents, prior to placement,** all pertinent information **[**about the child and the child's family**]**, including but not limited to**[**, the case plan with the foster parents to assist in determining if a child would be a proper placement. The division of family services and its contractors shall inform the foster parents of issues relative to the child that may jeopardize the health or safety of the foster family**]** **full disclosure of all medical, psychological, and psychiatric conditions of the child, as well as information from previous placements that would indicate that the child or children may have a propensity to cause violence to any member of the foster family home. The foster parents shall be provided with any information regarding the child or the child's family, including but not limited to the case plan, any family history of mental or physical illness, sexual abuse of the child or sexual abuse perpetrated by the child, criminal background of the child or the child's family, fire-setting or other destructive behavior by the child, substance abuse by the child or child's family, or any other information which is pertinent to the care and needs of the child and to protect the foster or adoptive family. Knowingly providing false or misleading information to foster parents in order to secure placement shall be denoted in the caseworker's personnel file and shall be kept on record by the division**.

(3) The **children's** division **[**of family services**]** and its contractors shall arrange preplacement visits, except in emergencies.

(4) The foster parents may ask questions about the child's case plan, encourage a placement or refuse a placement without reprisal from the caseworker or agency. After a placement, the **children's** division **[**of family services**]** **and its contractors** shall update the foster parents as new information about the child is gathered.

(5) Foster parents shall be informed **in a timely manner by the children's division and its contractors** of **[**upcoming**]** **all team** meetings and staffings **concerning their licensure status or children placed in their homes**, and shall be allowed to participate, consistent with section 210.761.

(6) The **children's** division **[**of family services**]** **and its contractors** shall establish reasonably accessible respite care for children in foster care for short periods of time, jointly determined by foster parents and the child's caseworker pursuant to section 210.545. **Foster parents shall follow all procedures established by the children's division and its contractors for requesting and using respite care.**

[(2)**]** **(7)** Foster parents shall treat all information received from the **children's** division **[**of family services**]** **and its contractors** about the child and the child's family as confidential. **Information necessary for the medical or psychiatric care of the child may be provided to the appropriate practitioners. Foster parents may share information necessary with school personnel in order to secure a safe and appropriate education for the child. Additionally,** foster parents **[**may**]** **shall** share information they may learn about the child and the child's family**, and concerns that arise in the care of the child,** with the caseworker and other members of the child welfare team. Recognizing that placement changes are difficult for children, foster parents shall seek all necessary information, and participate in preplacement visits **whenever possible**, before deciding whether to accept a child for placement. **[**Foster parents shall follow all procedures defined by the division of family services for requesting and using respite care.**]**

3. (1) Foster parents shall make decisions about the daily living concerns of the child, and shall be permitted to continue the practice of their own family values and routines while respecting the child's cultural heritage. All discipline shall be consistent with state laws and regulations. The **children's** division **[**of family services**]** shall allow foster parents to help plan visitation between the child and the child's **siblings or** biological family. **Visitations should be scheduled at a time that meets the needs of the child, the biological family members, and the foster family whenever possible. Recognizing that visitation with family members is an important right of children in foster care, foster parents shall be flexible and cooperative with regard to family visits.**

(2) Foster parents shall provide care that is respectful of the child's cultural identity and needs. **Recognizing that cultural competence can be learned, the children's division and their contractors shall provide foster parents with training that specifically addresses cultural needs of children, including but not limited to, information on skin and hair care, information on any specific religious or cultural practices of the child's biological family, and referrals to community resources for ongoing education and support.**

(3) Foster parents shall recognize that the purpose of discipline is to teach and direct the behavior of the child, and ensure that it is administered in a humane and sensitive manner. **[**Recognizing that visitation with family members is an important right, foster parents shall be flexible and cooperative in regard to family visits.**]** **Foster parents shall use discipline methods which are consistent with children's division policy.**

4. (1) Consistent with state laws and regulations, the **[**state may**]** **children's division and its contractors shall** provide, upon request by the foster parents, information about a child's progress after the child leaves foster care.

(2) Except in emergencies, foster parents shall be given **two weeks** advance notice **[**consistent with division policy,**]** and a written statement of the reasons before a child is removed from their care. **When requesting removal of a child from their home, foster parents shall give two weeks advance notice, consistent with division policy, to the child's caseworker, except in emergency situations.**

(3) Recognizing the critical nature of attachment for children, if a child reenters the foster care system **and is not placed in a relative home**, the child's **former** foster parents shall be **[**considered as a placement option**]** **given first consideration for placement of the child**.

(4) If a child becomes free for adoption while in foster care, the child's foster family shall be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

[(2)**]** **(5)** **[**Confidentiality rights of the child and the child's parents shall be respected and maintained. Foster parents shall inform the child's caseworker of their interest if a child reenters the system.**]** If a foster child becomes free for adoption and the foster parents desire to adopt the child, they shall inform the caseworker **[**in a timely manner**]** **within sixty days of the caseworker's initial query**. If they do not choose to pursue adoption, foster parents shall make every effort to support and encourage the child's placement in a permanent home**, including but not limited to providing information on the history and care needs of the child and accommodating transitional visitation**. **[**When requesting removal of a child from their home, foster parents shall give reasonable advance notice, consistent with division policy, to the child's caseworker, except in emergency situations.**]**

5. **[**(1)**]** Foster parents shall be informed by the court **[**in a timely manner of**]** **no later than two weeks prior to** all court hearings pertaining to a child in their care, and informed of their right to attend and participate, consistent with section 211.464, RSMo.

[(2) Foster parents shall share any concerns regarding the case plan for a child in their care with the child's caseworker, as well as other members of the child welfare team, in a timely manner.**]**

6. **The children's division and their contractors shall provide access to a fair and impartial grievance process to address licensure, case management decisions, and delivery**

of service issues. Foster parents shall have timely access to the child placement agency's appeals process, and shall be free from acts of retaliation when exercising the right to appeal.

7. **The children's division and their contractors shall provide training to foster parents on the policies and procedures governing the licensure of foster homes, the provision of foster care, and the adoption process.** Foster parents shall**, upon request, be provided with written documentation of the policies of the children's division and their contractors [**know and follow the policies of the division of family services, including the appeals procedure**]. Per licensure requirements, foster parents shall comply with the policies of the child placement agency.**

8. For purposes of this section, "foster parent" means a resource family providing care of children in state custody.

452.340. CHILD SUPPORT, HOW ALLOCATED — FACTORS TO BE CONSIDERED — ABATEMENT OR TERMINATION OF SUPPORT, WHEN — SUPPORT AFTER AGE EIGHTEEN, WHEN — PUBLIC POLICY OF STATE — PAYMENTS MAY BE MADE DIRECTLY TO CHILD, WHEN — CHILD SUPPORT GUIDELINES, REBUTTABLE PRESUMPTION, USE OF GUIDELINES, WHEN — RETROACTIVITY — OBLIGATION TERMINATED, HOW. — 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

(1) The financial needs and resources of the child;

(2) The financial resources and needs of the parents;

(3) The standard of living the child would have enjoyed had the marriage not been dissolved;

(4) The physical and emotional condition of the child, and the child's educational needs;

(5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and

(6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the **family support** division **[**of child support enforcement**]** may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454, RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454, RSMo.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

(1) Dies;

(2) Marries;

(3) Enters active duty in the military;

(4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;

(5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply; or

(6) Reaches age **[**twenty-two**]** **twenty-one**, unless the provisions of the child support order specifically extend the parental support order past the child's **[**twenty-second**]** **twenty-first** birthday for reasons provided by subsection 4 of this section.

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of **[**twenty-two**]** **twenty-one**, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. **When enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his or her courseload in any one semester, payment of child support may be terminated and shall not be eligible for reinstatement. Upon request for notification of the child's grades by the noncustodial parent, the child shall produce the required documents to the noncustodial parent within thirty days of receipt of grades from the education institution. If the child fails to produce the required documents, payment of child support may terminate without the accrual of any child support arrearage and shall not be eligible for reinstatement.** If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. **[**If the child has pursued a path of continuous attendance and has demonstrated evidence of a plan to continue to do so, the court may enter a judgment abating support for a period of up to five months for any semester in which the child completes at least six but less than twelve credit hours; however, such five-month period of abatement shall only be granted one time for each child.**]** If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any junior college, community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a **[**learning**]** **developmental** disability, **as defined in section 630.005, RSMo,** or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending substantially equal time with both parents. **[**Not later than October 1, 1998,**]** The Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every four years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the **family support** division **[**of child support enforcement**]** establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

11. The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age **[**twenty-two**]** **twenty-one** if the child support order does not specifically require payment of child support beyond age **[**twenty-two**]** **twenty-one** for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the division of child support enforcement;

(3) The obligation shall be deemed terminated without further judicial or administrative process when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the **family support** division **[**of child support enforcement**]**, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the **family support** division **[**of child support enforcement**]**, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the **family support** division **[**of child support enforcement**]**, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo, and shall proceed to hear and adjudicate such motion as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such motion to modify.

12. The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection 11 of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.

454.390. ENFORCING A SUPPORT ORDER FROM ANOTHER STATE, RESPONSE TO A REQUEST, CONTENTS OF THE REQUEST. — The division shall use high-volume automated administrative enforcement, to the same extent as used in intrastate cases, in response to a request made by another state child support agency to enforce a support order and promptly report the results to the requesting state. If the division provides assistance to another state in such a case, neither this state nor the requesting state shall consider the case to be transferred to its caseload**[**; however**]**, **but the division may establish a corresponding case based on such other state's request for assistance.** The division shall maintain records of the number of such interstate requests for assistance, the number of cases for which support was collected and the amounts of such collections. The division is authorized to transmit to another state, by electronic or other means, a request for assistance in a case involving the enforcement of a support order. Such request shall:

(1) Include information to enable the receiving state to compare the information about the case to the information in state databases; and

(2) Constitute a certification by the division of the arrearage amount under the order and that the division has complied with all applicable procedural due process requirements as provided for in this chapter.

454.440. DEFINITIONS — CHILD SUPPORT ENFORCEMENT MAY USE PARENT LOCATOR SERVICE, WHEN — FINANCIAL ENTITIES TO PROVIDE INFORMATION, WHEN, PENALTY FOR REFUSAL, IMMUNITY — STATEMENT OF ABSENT PARENTS, CONTENTS — PROHIBITED ACTS, PENALTIES — CONFIDENTIALITY OF RECORDS, EXCEPTIONS, PENALTIES. — 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Business" includes any corporation, partnership, association, individual, and labor or other organization including, but not limited to, a public utility or cable company;

(2) "Division", the Missouri division of child support enforcement of the department of social services;

(3) "Financial entity" includes any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit as a business;

(4) "Government agency", any department, board, bureau or other agency of this state or any political subdivision of the state;

(5) "Information" includes, but is not necessarily limited to, the following items:

(a) Full name of the parent;

(b) Social Security number of the parent;

(c) Date of birth of the parent;

(d) Last known mailing and residential address of the parent;

(e) Amount of wages, salaries, earnings or commissions earned by or paid to the parent;

(f) Number of dependents declared by the parent on state and federal tax information and reporting forms;

(g) Name of company, policy numbers and dependent coverage for any medical insurance carried by or on behalf of the parent;

(h) Name of company, policy numbers and cash values, if any, for any life insurance policies or annuity contracts, carried by or on behalf of, or owned by, the parent;

(i) Any retirement benefits, pension plans or stock purchase plans maintained on behalf of, or owned by, the parent and the values thereof, employee contributions thereto, and the extent to which each benefit or plan is vested;

(j) Vital statistics, including records of marriage, birth or divorce;

(k) Tax and revenue records, including information on residence address, employer, income or assets;

(l) Records concerning real or personal property;

(m) Records of occupational, professional or recreational licenses or permits;

(n) Records concerning the ownership and control of corporations, partnerships or other businesses;

(o) Employment security records;

(p) Records concerning motor vehicles;

(q) Records of assets or liabilities;

(r) Corrections records;

(s) Names and addresses of employers of parents;

(t) Motor vehicle records; and

(u) Law enforcement records;

(6) "Parent", a biological or adoptive parent, including a presumed or putative father. **The word "parent" shall also include any person who has been found to be such by:**

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;

(c) Operation of law under section 210.823, RSMo; or

(d) A court or administrative tribunal of another state.

2. For the purpose of locating and determining financial resources of the parents relating to establishment of paternity or to establish, modify or enforce support orders, the division or other state IV-D agency may request and receive information from the federal Parent Locator Service, from available records in other states, territories and the District of Columbia, from the records of all government agencies, and from businesses and financial entities. A request for information from a public utility or cable television company shall be made by subpoena authorized pursuant to this chapter. The government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential. In addition, the division may use all sources of information and available records and, pursuant to agreement with the secretary of the United States Department of Health and Human Services, or the secretary's designee, request and receive from the federal Parent Locator Service information pursuant to 42 U.S.C. Sections 653 and 663, to determine the whereabouts of any parent or child when such information is to be used to locate the parent or child to enforce any state or federal law with respect to the unlawful taking or restraining of a child, or of making or enforcing a child custody or visitation order.

3. Notwithstanding the provisions of subsection 2 of this section, no financial entity shall be required to provide the information requested by the division or other state IV-D agency unless the division or other state IV-D agency alleges that the parent about whom the information is sought is an officer, agent, member, employee, depositor, customer or the insured of the financial institution, or unless the division or other state IV-D agency has complied with the provisions of section 660.330, RSMo.

4. Any business or financial entity which has received a request from the division or other state IV-D agency as provided by subsections 2 and 3 of this section shall provide the requested information or a statement that any or all of the requested information is not known or available to the business or financial entity, within sixty days of receipt of the request and shall be liable to the state for civil penalties up to one hundred dollars for each day after such sixty-day period in which it fails to provide the information so requested. Upon request of the division or other state IV-D agency, the attorney general shall bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

5. Any business or financial entity, or any officer, agent or employee of such entity, participating in good faith in providing information requested pursuant to subsections 2 and 3 of this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the division.

6. Upon request of the division or other state IV-D agency, any parent shall complete a statement under oath, upon such form as the division or other state IV-D agency may specify, providing information, including, but not necessarily limited to, the parent's monthly income, the parent's total income for the previous year, the number and name of the parent's dependents and the amount of support the parent provides to each, the nature and extent of the parent's assets, and such other information pertinent to the support of the dependent as the division or other state IV-D agency may request. Upon request of the division or other state IV-D agency, such statements shall be completed annually. Failure to comply with this subsection is a class A misdemeanor.

7. The disclosure of any information provided to the business or financial entity by the division or other state IV-D agency, or the disclosure of any information regarding the identity of any applicant for or recipient of public assistance, by an officer or employee of any business

or financial entity, or by any person receiving such information from such employee or officer is prohibited. Any person violating this subsection is guilty of a class A misdemeanor.

8. Any person who willfully requests, obtains or seeks to obtain information pursuant to this section under false pretenses, or who willfully communicates or seeks to communicate such information to any agency or person except pursuant to this chapter, is guilty of a class A misdemeanor.

9. For the protection of applicants and recipients of services pursuant to sections 454.400 to 454.645, all officers and employees of, and persons and entities under contract to, the state of Missouri are prohibited, except as otherwise provided in this subsection, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of services or relating to proceedings or actions to establish paternity or to establish or enforce support, or relating to the contents of any records, files, papers and communications, except in the administration of the child support program or the administration of public assistance, including civil or criminal proceedings or investigations conducted in connection with the administration of the child support program or the administration of public assistance. Such officers, employees, persons or entities are specifically prohibited from disclosing any information relating to the location of one party to another party:

(1) If a protective order has been entered against the other party; or

(2) If there is reason to believe that such disclosure of information may result in physical or emotional harm to the other party.

In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of child support services or public assistance, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence. Nothing in this subsection shall be construed to prohibit the circuit clerk from releasing information, not otherwise privileged, from court records for reasons other than the administration of the child support program, if such information does not identify any individual as an applicant for or recipient of services pursuant to sections 454.400 to 454.645. Anyone who purposely or knowingly violates this subsection is guilty of a class A misdemeanor.

454.455. ASSIGNMENTS BY CARETAKER RELATIVES, TERMINATE, WHEN, EXCEPTIONS — CARETAKER RELATIVE DEFINED. — 1. In any case wherein an order for child support has been entered and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, and the caretaker relative makes an assignment of support rights to the division of family services in order to receive aid to families with dependent children benefits, the relinquishment and the assignment, by operation of law, shall transfer the child support obligation pursuant to the order to the division in behalf of the state. The assignment shall terminate when the caretaker relative no longer has physical custody of the child, except for those unpaid support obligations still owing to the state pursuant to the assignment at that time.

2. As used in subsection 1 of this section, the term "caretaker relative" includes only those persons listed in subdivision (2) of subsection 1 of section 208.040, RSMo.

3. If an order for child support has been entered, no assignment of support has been made, and the legal custodian and obligee under the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, or the child is placed by the court in the legal custody of a state agency, the division may, thirty days after the transfer of custody and upon notice to the obligor and obligee, direct the obligor or other payor to change the payee to the caretaker relative or appropriate state agency. **[**Such**]** **An** order **changing the payee to a caretaker relative** shall terminate when the caretaker relative no longer has physical custody of the child, or the state agency is relieved of legal custody, except for the unpaid support obligations still owed to the caretaker relative **or the state**.

4. If there has been an assignment of support to an agency or division of the state or a requirement to pay through a state disbursement unit, the division may, upon notice to the obligor and obligee, direct the obligor or other payor to change the payee to the appropriate state agency.

454.460. DEFINITIONS. — As used in sections 454.400 to 454.560, unless the context clearly indicates otherwise, the following terms mean:

(1) "Court", any circuit court of this state and any court or agency of any other state having jurisdiction to determine the liability of persons for the support of another person;

(2) "Court order", any judgment, decree, or order of any court which orders payment of a set or determinable amount of support money;

(3) "Department", the department of social services of the state of Missouri;

(4) "Dependent child", any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(5) "Director", the director of the division of child support enforcement, or the director's designee;

(6) "Division", the division of child support enforcement of the department of social services of the state of Missouri;

(7) "IV-D agency", an agency designated by a state to administer programs under Title IV-D of the Social Security Act;

(8) "IV-D case", a case in which services are being provided pursuant to section 454.400;

(9) "Obligee", any person**, state, or political subdivision** to whom **[**payments are required to be made pursuant to the terms of a court order for a child, spouse or former spouse**] or to which a duty of support is owed as determined by a court or administrative agency of competent jurisdiction**;

(10) "Obligor", any person **[**required to make payments pursuant to the terms of a court order for a child, spouse or former spouse**] who owes a duty of support as determined by a court or administrative agency of competent jurisdiction**;

(11) "Parent", **[**the**] a** biological or adoptive **[**father or mother of a dependent child**] parent, including a presumed or putative father. The word "parent" shall also include any person who has been found to be such by:**

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;

(c) Operation of law under section 210.823, RSMo; or

(d) A court or administrative tribunal of another state;

(12) "Public assistance", any cash or benefit pursuant to Part IV-A**, Part IV-B, Part IV-E,** or Title XIX of the federal Social Security Act paid by the department to or for the benefit of any dependent child or any public assistance assigned to the state;

(13) "State", any state or political subdivision, territory or possession of the United States, District of Columbia, and the Commonwealth of Puerto Rico;

(14) "Support order", a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority pursuant to the law of the issuing state, or of the parent with whom the child is living and providing monetary support, health care, child care, arrearages or reimbursement for such child, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.

454.470. DIRECTOR TO ISSUE NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY, WHEN, PROCEDURE, CONTENTS — COMPUTATION OF PERIODIC FUTURE SUPPORT — HEARING, WHEN, FAILURE OF PARENT TO REQUEST, RESULT. — 1. **[**If a court order has not been previously entered or if a support order has been entered but is not entitled to recognition

pursuant to sections 454.850 to 454.997,**]** The director may issue a notice and finding of financial responsibility to a parent who owes a state debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the division pursuant to section 454.425 **if a court order has not been previously entered against that parent, a court order has been previously entered but has been terminated by operation of law or if a support order from another state has been entered but is not entitled to recognition under sections 454.850 to 454.997**. **[**A copy**]** **Service** of the notice and finding shall be **[**mailed to the last known address of both parents and any person or agency having custody of the child within fourteen days of the issuance of such notice and finding**]** **made on the parent or other party in the manner prescribed for service of process in a civil action by an authorized process server appointed by the director, or by certified mail, return receipt requested. The director may appoint any uninterested party, including but not limited to employees of the division, to serve such process. For purposes of this subsection, a parent who refuses receipt of service by certified mail is deemed to have been served. Service upon an obligee who is receiving support enforcement services under section 454.425 may be made by regular mail**. When appropriate to the circumstances of the individual action, the notice shall state:

(1) The name of the person or agency with custody of the dependent child and the name of the dependent child for whom support is to be paid;

(2) The monthly future support for which the parent shall be responsible;

(3) The state debt, if any, accrued and accruing, and the monthly payment to be made on the state debt which has accrued;

(4) A statement of the costs of collection, including attorney's fees, which may be assessed against the parent;

(5) That the parent shall be responsible for providing medical insurance for the dependent child;

(6) That if a parent desires to discuss the amount of support that should be paid, the parent or person having custody of the child may, within twenty days after being served, contact the division office which sent the notice and request a negotiation conference. The other parent or person having custody of the child shall be notified of the negotiated conference and may participate in the conference. If no agreement is reached on the monthly amount to be paid, the director may issue a new notice and finding of financial responsibility, which may be sent to the parent required to pay support by regular mail addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. A copy of the new notice and finding shall be sent by regular mail to the other parent or person having custody of the child;

(7) That if a parent or person having custody of the child objects to all or any part of the notice and finding of financial responsibility and no negotiation conference is requested, within twenty days of the date of service the parent or person having custody of the child shall send to the division office which issued the notice a written response which sets forth any objections and requests a hearing; and, that if the director issues a new notice and finding of financial responsibility, the parent or person having custody of the child shall have twenty days from the date of issuance of the new notice to send a hearing request;

(8) That if such a timely response is received by the appropriate division office, and if such response raises factual questions requiring the submission of evidence, the parent or person having custody of the child shall have the right to a hearing before an impartial hearing officer who is an attorney licensed to practice law in Missouri and, that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility;

(9) That the parent has the right to be represented at the hearing by an attorney of the parent's own choosing;

(10) That the parent or person having custody of the child has the right to obtain evidence and examine witnesses as provided for in chapter 536, RSMo, together with an explanation of

the procedure the parent or person having custody of the child shall follow in order to exercise such rights;

(11) That as soon as the order is entered, the property of the parent required to pay support shall be subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon;

(12) A reference to sections 454.460 to 454.510;

(13) That the parent is responsible for notifying the division of any change of address or employment;

(14) That if the parent has any questions, the parent should telephone or visit the appropriate division office or consult an attorney; and

(15) Such other information as the director finds appropriate.

2. The statement of periodic future support required by subdivision (2) of subsection 1 of this section is to be computed **[**as follows:

(1) If there is sufficient information available to the division regarding the parent's financial and living situation, the scale and formula provided for in section 454.480 shall be used; or

(2) If there is insufficient information available to use the scale and formula, an estimate of ability to pay shall be the basis of the statement**] under the guidelines established in subsection 8 of section 452.340, RSMo**.

3. Any time limits for notices or requests may be extended by the director, and such extension shall have no effect on the jurisdiction of the court, administrative body, or other entity having jurisdiction over the proceedings.

4. If a timely written response setting forth objections and requesting a hearing is received by the appropriate division office, and if such response raises a factual question requiring the submission of evidence, a hearing shall be held in the manner provided by section 454.475. If no timely written response and request for hearing is received by the appropriate division office, the director may enter an order in accordance with the notice, and shall specify:

(1) The amount of periodic support to be paid, with directions on the manner of payment;

(2) The amount of state debt, if any, accrued in favor of the department;

(3) The monthly payment to be made on state debt, if any;

(4) The amount of costs of collection, including attorney's fees, assessed against the parent;

(5) The name of the person or agency with custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid;

(6) That the property of the parent is subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon; and

(7) If appropriate, that the parent shall provide medical insurance for the dependent child, or shall pay the reasonable and necessary medical expenses of the dependent child.

5. The parent or person having custody of the child shall be sent a copy of the order by **[**registered or certified mail, return receipt requested,**] regular mail** addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order. **[**A copy of the order shall also be sent by regular mail to the person having custody of a child for whom an order is issued pursuant to this section.**]**

6. Copies of the orders issued pursuant to this section shall be mailed within fourteen days of the issuance of the order.

7. Any parent or person having custody of the child who is aggrieved as a result of any allegation or issue of fact contained in the notice and finding of financial responsibility shall be afforded an opportunity for a hearing, upon the request in writing filed with the director not more than twenty days after service of the notice and finding is made upon such parent or person having custody of the child, and if in requesting such hearing, the aggrieved parent or person having custody of the child raises a factual issue requiring the submission of evidence.

8. At any time after the issuance of an order under this section, the director may issue an order vacating that order if it is found that the order was issued without subject matter

or personal jurisdiction or if the order was issued without affording the obligor due process of law.

454.496. MOTION TO MODIFY ORDER, REVIEW — FORM OF MOTION, SERVICE, PROCEDURE — EFFECTIVE, WHEN — VENUE FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDER, PROCEDURE. — 1. At any time after the entry of a court order for child support in a case in which support rights have been assigned to the state pursuant to section 208.040, RSMo, or a case in which support enforcement services are being provided pursuant to section 454.425, the obligated parent, the obligee or the division of child support enforcement may file a motion to modify the existing child support order pursuant to this section, if a review has first been completed by the director of child support enforcement pursuant to subdivision (13) of subsection 2 of section 454.400. The motion shall be in writing in a form prescribed by the director, shall set out the reasons for modification and shall state the telephone number and address of the moving party. The motion shall be served in the same manner provided for in subsection 5 of section 454.465 upon the obligated parent, the obligee and the division, as appropriate. In addition, if the support rights are held by the division of family services on behalf of the state, the moving party shall mail a true copy of the motion by certified mail to the person having custody of the dependent child at the last known address of that person. The party against whom the motion is made shall have thirty days either to resolve the matter by stipulated agreement or to serve the moving party and the director, as appropriate, by regular mail with a written response setting forth any objections to the motion and a request for hearing. When requested, the hearing shall be conducted pursuant to section 454.475 by hearing officers designated by the department of social services. In such proceedings, the hearing officers shall have the authority granted to the director pursuant to subsection 6 of section 454.465.

2. When no objections and request for hearing have been served within thirty days, the director, upon proof of service, shall enter an order granting the relief sought. Copies of the order shall be mailed to the parties within fourteen days of issuance.

3. A motion to modify made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order unless so ordered by the court in which the order is docketed.

4. The only support payments which may be modified are payments accruing subsequent to the service of the motion upon all parties to the motion.

5. The party requesting modification shall have the burden of proving that a modification is appropriate pursuant to the provisions of section 452.370, RSMo.

6. Notwithstanding the provisions of section 454.490 to the contrary, an administrative order modifying a court order is not effective until the administrative order is filed with and approved by the court that entered the court order. The court may approve the administrative order if no party affected by the decision has filed a petition for judicial review pursuant to sections 536.100 to 536.140, RSMo. After the thirty-day time period for filing a petition of judicial review pursuant to chapter 536, RSMo, has passed, the court shall render its decision within fifteen days. **If the court finds the administrative order should be approved, the court shall make a written finding on the record that the order complies with section 452.340, RSMo, and applicable supreme court rules and approve the order. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo.**

7. If a petition for judicial review is filed, the court shall review all pleadings and the administrative record, as defined in section 536.130, RSMo, pursuant to section 536.140, RSMo. After such review, the court shall determine if the administrative order complies with section 452.340 and applicable supreme court rules. If it so determines, the court shall make a written finding on the record that the order complies with section 452.340 and applicable supreme court rules and approve the order or, if after review pursuant to section 536.140, RSMo, the court finds that the administrative order does not comply with supreme court rule 88.01, the court may select

any of the remedies set forth in subsection 5 of section 536.140, RSMo. The court shall notify the parties and the division of any setting pursuant to this section.

[7.**]** **8.** Notwithstanding the venue provisions of chapter 536, RSMo, to the contrary, for the filing of petitions for judicial review of final agency decisions and contested cases, the venue for the filing of a petition for judicial review contesting an administrative order entered pursuant to this section modifying a judicial order shall be in the court which entered the judicial order. In such cases in which a petition for judicial review has been filed, the court shall consider the matters raised in the petition and determine if the administrative order complies with section 452.340 and applicable supreme court rules. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo. The court shall notify the parties and the division of the setting of such proceeding. If the court determines that the matters raised in the petition are without merit and that the administrative order complies with the provisions of section 452.340 and applicable supreme court rules, the court shall approve the order.

454.511. DENIAL OF A PASSPORT FOR CHILD SUPPORT ARREARAGE, WHEN — MISTAKE OF FACT, DEFINED. — The division may certify a person who owes a child support arrearage in **[**an**]** **excess of the** amount **[**exceeding five thousand dollars**]** **set forth in 42 U.S.C. 654(31)** to the appropriate federal government agency for the purpose of denying a passport to such person, or revoking, suspending or limiting a passport previously issued to such person. Such person shall be mailed, by the division or on behalf of the division, a notice of the proposed certification and the consequences thereof upon such person. Within thirty days of receipt of the notice, the person may contest the proposed certification by requesting in writing a hearing pursuant to the procedures in section 454.475. At such hearing the obligor may assert only mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of arrearages or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The division shall not certify the person until after a final decision has been reached.

511.350. LIENS ON REAL ESTATE ESTABLISHED BY JUDGMENT OR DECREES IN COURTS OF RECORD, EXCEPTION — ASSOCIATE CIRCUIT COURT, PROCEDURE REQUIRED — NO ADMINISTRATIVE AMENDMENTS. — 1. Judgments and decrees entered by the supreme court, by any United States district or circuit court held within this state, by any district of the court of appeals, by any circuit court and any probate division of the circuit court, except judgments and decrees rendered by associate, small claims and municipal divisions of the circuit courts, shall be liens on the real estate of the person against whom they are entered, situate in the county for which or in which the court is held.

2. Judgments and decrees rendered by the associate divisions of the circuit courts shall not be liens on the real estate of the person against whom they are rendered until such judgments or decrees are filed with the clerk of the circuit court pursuant to sections 517.141 and 517.151, RSMo.

3. Judgments and decrees entered by the small claims and municipal divisions of the circuit court shall not constitute liens against the real estate of the person against whom they are rendered.

4. Notwithstanding any other provision of law, no judgments or decrees entered by any court of competent jurisdiction may be amended or modified by any administrative agency **without the approval of a court of competent jurisdiction**.

5. Notwithstanding subsection 4 of this section or any other law to the contrary, no judgments or decrees entered by any court of competent jurisdiction relating to child support orders may be amended or modified by any administrative agency without the approval of a court of competent jurisdiction.

[454.480. MINIMUM SUPPORT OBLIGATIONS, FORMULA FOR ESTABLISHING. — In order to assist in determining the amount that a parent shall be ordered to contribute toward the support of a dependent child, the division shall establish by regulation a scale and formula for determining minimum support obligations. The scale and formula shall take into account the following factors:

(1) All earnings and income resources of the parents, including real and personal property;

(2) The reasonable necessities of the parent;

(3) The needs of the dependent child for whom support is sought;

(4) The amount of public assistance which would be paid to the dependent child under the full standard of need of the state's public assistance plan;

(5) The existence of other dependents, except that the dependent child for whom support is sought shall benefit from the income and resources of the parent on an equitable basis in comparison with any other dependent of the parent;

(6) Other reasonable criteria which the division may choose to incorporate.**]**

[454.810. DETERMINATION OF ARREARAGES AND CREDITS, CERTAIN CASES, PROCEDURE — HEARINGS — FILING. — 1. For all IV-D cases as defined by section 452.345, RSMo, the division of child support enforcement shall determine support arrearages and credits by consent of the parties to the support order or by use of the administrative order process set out in section 454.476.

2. Notwithstanding any provisions of section 454.475 to the contrary, hearings pursuant to this section may be requested by either party and may be conducted by nonattorney hearing officers specially designated by the department of social services. Any person adversely affected by any hearing decisions pursuant to this section may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo.

3. Any support arrearage and credit determination established pursuant to this section and all documentation that forms the basis for the determination shall be filed with the circuit clerk and shall be considered part of the official trusteeship record if filed prior to October 1, 1999, or if filed after such date, as part of the records of the payment center pursuant to this chapter for all purposes.**]**

Approved July 13, 2007

SB 30 [CCS HCS SB 30]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the sales tax exemption for common carriers

AN ACT to repeal sections 67.1360, 71.011, 71.012, 135.030, 144.030, 144.083, 144.518, 208.750, 238.410, 320.093, and 390.030, RSMo, and to enact in lieu thereof twenty-two new sections relating to taxation.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1360, 71.011, 71.012, 135.030, 144.030, 144.083, 144.518, 208.750, 238.410, 320.093, and 390.030, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 67.113, 67.997, 67.1016, 67.1360, 71.011, 71.012, 82.875, 135.030, 135.090, 137.092, 142.817, 144.030, 144.054, 144.083, 144.518, 163.016, 205.563, 208.750, 238.410, 320.093, 387.075, and 390.030, to read as follows:

67.113. SHORT TITLE — CHILDREN'S SERVICES FUND REIMBURSEMENT. — 1. This section shall be known and may be cited as "The Children's Services Protection Act".

2. Any city or county which has levied the sales tax under section 67.1775 to provide services for children in need shall reimburse the community children's services fund in an amount equal to the portion of revenue from the tax that is used for or diverted to any redevelopment plan or project approved or adopted after August 28, 2007, in any tax increment financing district in any county in this state.

67.997. SENIOR SERVICES AND YOUTH PROGRAM SALES TAX — BALLOT LANGUAGE — TRUST FUND CREATED, USE OF MONEYS (PERRY COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eighteen thousand one hundred but fewer than eighteen thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding senior services and youth programs provided by the county. One-half of all revenue collected under this section, less one-half the cost of collection, shall be used solely to fund any service or activity deemed necessary by the senior service tax commission established in this section, and one-half of all revenue collected under this section, less one-half the cost of collection, shall be used solely to fund all youth programs administered by an existing county community task force. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated

separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the county) impose a sales tax at a rate of ..... (insert rate of percent) percent, with half of the revenue from the tax to be used solely to fund senior services provided by the county and half of the revenue from the tax to be used solely to fund youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following the approval of the tax or notification to the department of revenue if such tax will be administered by the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. On or after the effective date of any tax authorized under this section, the county which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Senior Services and Youth Programs Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made

applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding senior services and youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Each county imposing the tax authorized in this section shall establish a senior services tax commission to administer the portion of the sales tax revenue dedicated to providing senior services. Such commission shall consist of seven members appointed by the county commission. The county commission shall determine the qualifications, terms of office, compensation, powers, duties, restrictions, procedures, and all other necessary functions of the commission.

67.1016. COUNTY TRANSIENT GUEST TAXES — PROCEDURES. — 1. The governing body of any county of the second, third, or fourth classification may impose, by order or ordinance, a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the county or a portion thereof. The tax shall be not more than one cent per occupied room per night, and shall be imposed solely for the purpose of promoting tourism related activities in the county. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance shall become effective unless the governing body of the county submits to the voters of the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the county and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue generated by the tax shall be collected by the county collector of revenue, shall be deposited in a special trust fund, and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund that are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds. Any interest and moneys earned on such investments shall be credited to the fund.

4. Upon adoption of the tax under this section, there shall be established in each county adopting the tax a "Tourism Commission", to consist of five members appointed by the governing body of the county. No more than one member of the tourism commission shall be a member of the governing body of the county. Of the initial members appointed, two shall hold office for one year, two shall hold office for two years, and one shall hold office for three years. Members appointed after expiration of the initial terms shall be appointed to a three-year term. Each member may be reappointed. Vacancies shall be filled by appointment by the governing body of the county for the remainder of the unexpired term. The members shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses incurred in service of the tourism commission.

5. The governing body of any county that has adopted the tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the county. If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the county, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any county that has adopted the tax authorized in this section receives a petition, signed by a number of registered voters of the county equal to at least two percent of the number of registered voters of the county voting in the last gubernatorial election, calling for an election to repeal the tax imposed under this section, the governing body shall submit to the voters of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters of the county and the repeal is approved by a majority of the qualified voters voting on the question.

7. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants; **or**

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

71.011. TRANSFER OF CERTAIN LAND BETWEEN MUNICIPALITIES, WHEN — PROCEDURE — EXCEPTION — CONCURRENT DETACHMENT AND ANNEXATION, PROCEDURE. — 1. Except as provided in subsection 2 of this section, property of a municipality which abuts another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing bodies of each municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be concurrently detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. One certified copy of each ordinance shall be filed with the county clerk, **with the county assessor,** with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if there are no residents living in the area or if there are residents in the area and they be notified of the annexation and do not object within sixty days.

2. In a county of the first classification with a charter form of government containing all or a portion of a city with a population of at least three hundred thousand inhabitants, unimproved property of a municipality which overlaps another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the city clerk of the contributing municipality, which shall have thirty days from receipt of said notice to pass an ordinance disapproving the change of boundary. If such ordinance is not passed within thirty days, the change shall be effective and one certified copy of the ordinance shall be filed with the county clerk, **with the county assessor,** with the county

recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if the landowners in the area are notified and do not object within sixty days.

71.012. ANNEXATION PROCEDURE, HEARING, EXCEPTIONS (PERRY COUNTY, RANDOLPH COUNTY) — CONTIGUOUS AND COMPACT DEFINED — COMMON INTEREST COMMUNITY, COOPERATIVE AND PLANNED COMMUNITY, DEFINED — OBJECTION, PROCEDURE. — 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town or village pursuant to this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations pursuant to this section merely because such voluntary annexation would create an island of unincorporated area within the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification and Mississippi River may annex areas along a road or highway up to two miles from existing boundaries of the city, town or village or the governing body in any city, town or village in any county of the third classification without a township form of government with a population of at least twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such county contains a state correctional center may voluntarily annex such correctional center pursuant to the provisions of this section if the correctional center is along a road or highway within two miles from the existing boundaries of the city, town or village.

2. (1) When a verified petition, requesting annexation and signed by the owners of all fee interests of record in all tracts of real property located within the area proposed to be annexed, or a request for annexation signed under the authority of the governing body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed is presented to the governing body of the city, town or village, the governing body shall hold a public hearing concerning the matter not less than fourteen nor more than sixty days after the petition is received, and the hearing shall be held not less than seven days after notice of the hearing is published in a newspaper of general circulation qualified to publish legal matters and located within the boundary of the petitioned city, town or village. If no such newspaper exists within the boundary of such city, town or village, then the notice shall be published in the qualified newspaper nearest the petitioned city, town or village. For the purposes of this subdivision, the term "common-interest community" shall mean a condominium as said term is used in chapter 448, RSMo, or a common-interest community, a cooperative, or a planned community.

(a) A "common-interest community" shall be defined as real property with respect to which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in a declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years in a unit, including renewal options;

(b) A "cooperative" shall be defined as a common-interest community in which the real property is owned by an association, each of whose members is entitled by virtue of such member's ownership interest in the association to exclusive possession of a unit;

(c) A "planned community" **shall be defined as** a common-interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(2) At the public hearing any interested person, corporation or political subdivision may present evidence regarding the proposed annexation. If, after holding the hearing, the governing body of the city, town or village determines that the annexation is reasonable and necessary to the proper development of the city, town or village, and the city, town or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, it may, subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance without further action.

(3) If a written objection to the proposed annexation is filed with the governing body of the city, town or village not later than fourteen days after the public hearing by at least five percent of the qualified voters of the city, town or village, or two qualified voters of the area sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015 and 71.860 to 71.920, shall be followed.

3. If no objection is filed, the city, town or village shall extend its limits by ordinance to include such territory, specifying with accuracy the new boundary lines to which the city's, town's or village's limits are extended. Upon duly enacting such annexation ordinance, the city, town or village shall cause three certified copies of the same to be filed with the clerk of the county **and county assessor** wherein the city, town or village is located, and one certified copy to be filed with the election authority, if different from the clerk of the county which has jurisdiction over the area being annexed, whereupon the annexation shall be complete and final and thereafter all courts of this state shall take judicial notice of the limits of that city, town or village as so extended.

82.875. POLICE SERVICES SALES TAX — VOTE REQUIRED — FUND CREATED, USE OF MONEYS (CITY OF INDEPENDENCE). — 1. The governing body of any home rule city with more than one hundred thirteen thousand two hundred but fewer than one hundred thirteen thousand three hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one percent of the gross receipts of such retail sales, may be imposed in increments of one-eighth of one percent, and shall be imposed solely for the purpose of funding police services provided by the police department of the city. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund,

which is hereby created and shall be known as the "City Police Services Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

135.030. FORMULA FOR DETERMINING CREDITS — TABLE TO BE PREPARED BY DIRECTOR OF REVENUE — TAXPAYER NOT APPLYING FOR CREDIT TO BE NOTIFIED OF ELIGIBILITY. — 1. As used in this section:

(1) The term "maximum upper limit" shall, **[**in the calendar year 1989, be the sum of thirteen thousand five hundred dollars. For each calendar year through December 31, 1992, the maximum upper limit shall be increased by five hundred dollars per year. For calendar years after December 31, 1992, and prior to calendar year 1998, the maximum upper limit shall be the sum used on December 31, 1992.**]** for each calendar year after December 31, 1997, **[**the maximum upper limit shall**]** **but before calendar year 2008,** be the sum of twenty-five thousand dollars**. For the calendar year beginning on January 1, 2008, the maximum upper limit shall be the sum of twenty-seven thousand five hundred dollars**;

(2) The term "minimum base" shall, **[**in the calendar year 1989, be the sum of five thousand dollars. For each succeeding calendar year through December 31, 1992, the minimum base shall be increased, in one hundred-dollar increments, by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor, or its successor agency, or five percent, whichever is greater. The increase in the index shall be that as first published by the Department of Labor for the calendar year immediately preceding the year in which the minimum base is calculated. For calendar years after December 31, 1992, and prior to calendar year 1998, the minimum base shall be the sum used on December 31, 1992.**]** for each calendar year after December 31, 1997, **[**the minimum base shall**]** **but before calendar year 2008,** be the sum of thirteen thousand dollars. **For the calendar year beginning January 1, 2008, the minimum base shall be the sum of fourteen thousand three hundred dollars.**

2. **[**When calculating the minimum base for purposes of this section, whenever the increase in the Consumer Price Index used in the calculation would result in a figure which is greater than one one-hundred-dollar increment but less than another one-hundred-dollar increment, the director of revenue shall always round that figure off to the next higher one-hundred-dollar increment when determining the table of credits under this section.

3.**]** If the income on a return is equal to or less than the maximum upper limit for the calendar year for which the return is filed, the property tax credit shall be determined from a table of credits based upon the amount by which the total property tax described in section 135.025 exceeds the percent of income in the following list:

If the income on the return is:	The percent is:
Not over the minimum base	0 percent with credit not to exceed actual property tax or rent equivalent paid up to $750
Over the minimum base but not over the maximum upper limit	1/16 percent accumulative per $300 from 0 percent to 4 percent.

The director of revenue shall prescribe a table based upon the preceding sentences. The property tax shall be in increments of twenty-five dollars and the income in increments of three hundred dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the basis of the property tax and income at the midpoints of each increment. As used in this subsection, the term "accumulative" means an increase by continuous or repeated application of the percent to the income increment at each three hundred dollar level.

[4.**]** **3.** Notwithstanding **[**the provision of**]** subsection 4 of section 32.057, RSMo, the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any qualified claimant of **[**his or her**]** **the claimant's** potential eligibility, where the department determines such potential eligibility exists.

135.090. INCOME TAX CREDIT FOR SURVIVING SPOUSES OF PUBLIC SAFETY OFFICERS. — 1. As used in this section, the following terms mean:

(1) "Homestead", the dwelling in Missouri owned by the surviving spouse and not exceeding five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. As used in this section, "homestead" shall not include any dwelling which is occupied by more than two families;

(2) "Public safety officer", any firefighter, police officer, capitol police officer, parole officer, probation officer, correctional employee, water patrol officer, park ranger, conservation officer, commercial motor enforcement officer, emergency medical

technician, first responder, or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed in the line of duty, unless the death was the result of the officer's own misconduct or abuse of alcohol or drugs;

(3) "Surviving spouse", a spouse, who has not remarried, of a public safety officer.

2. For all tax years beginning on or after January 1, 2008, a surviving spouse shall be allowed a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to the total amount of the property taxes on the surviving spouse's homestead paid during the tax year for which the credit is claimed. If the amount allowable as a credit exceeds the income tax reduced by other credits, then the excess shall be considered an overpayment of the income tax.

3. The department of revenue shall promulgate rules to implement the provisions of this section.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

5. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

137.092. RENTAL OR LEASING FACILITIES TO SUBMIT PERSONAL PROPERTY LISTS — PENALTY. — 1. As used in this section, the following terms mean:

(1) "Personal property", any house trailer, manufactured home, boat, vessel, floating home, floating structure, airplane, or aircraft;

(2) "Rental or leasing facility", any manufactured home park, manufactured home storage facility, marina or comparable facility providing dockage or storage space, or any hangar or similar aircraft storage facility.

2. For all calendar years beginning on or after January 1, 2008, every owner of a rental or leasing facility shall, by January thirtieth of each year, furnish the assessor of the county in which the rental or leasing facility is located a list of the personal property located at the rental or leasing facility on January first of each year. The list shall include:

(1) The name of the owner of the personal property;

(2) The owner's address and county of residency, if known;

(3) A description of the personal property located at the facility if the owner of the rental or leasing facility knows of or has been made aware of the nature of such personal property.

3. If the owner of a rental or leasing facility fails to submit the list by January thirtieth of each year, or fails to include all the information required by this section on the list, the valuation of the personal property that is not listed as required by this section and that is located at the rental or leasing facility shall be assessed to the owner of the rental or leasing facility.

4. The assessor of the county in which the rental or leasing facility is located shall also collect a penalty as additional tax on the assessed valuation of such personal property that is not listed as required by this section. The penalty shall be collected as follows:

Assessed valuation	**Penalty**
$0 to $1,000	**$10.00**
$1,001 to $2,000	**$20.00**
$2,001 to $3,000	**$30.00**
$3,001 to $4,000	**$40.00**
$4,001 to $5,000	**$50.00**
$5,001 to $6,000	**$60.00**
$6,001 to $7,000	**$70.00**
$7,001 to $8,000	**$80.00**
$8,001 to $9,000	**$90.00**
$9,001 and above	**$100.00**

5. The funds derived from the penalty collected under this section shall be disbursed proportionately to any taxing entity authorized to levy a tax on such personal property. No rental or leasing facility owner penalized under this section shall be subject to any penalty authorized in section 137.280 or 137.345 for the same personal property in the same tax year.

142.817. FUEL TAX EXEMPTION FOR CERTAIN PUBLIC SERVICES. — Motor fuel sold to be used to operate public mass transportation service by a city transit authority, a city utilities board, or an interstate transportation authority, as such terms are defined in section 94.600, RSMo, a city, or an agency receiving funding from either the Federal Transit Administration's urban or nonurban formula transit programs is exempt from the fuel tax imposed by this chapter. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing

water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, **[**solely**]** in the transportation of persons or property **[**in interstate commerce**]**;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such

motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property **and utilities** purchased for use or consumption directly or exclusively in the research and development of **agricultural/biotechnology and plant genomics products and** prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) **[**Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38)**]** All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo; and

[(39)**]** **(38)** Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event.

144.054. TAX EXEMPTION FOR COST OF UTILITIES, CHEMICALS, AND MATERIALS USED TO PRODUCE A PRODUCT. — 1. As used in this section, the following terms mean:

(1) "Processing", any mode of treatment, act, or series of acts performed upon materials to transform or reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(2) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not they require subsequent separation and processing.

2. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, electrical energy and gas, whether natural, artificial, or propane, water, coal, and energy sources, chemicals, machinery, equipment, and materials used or consumed in the manufacturing, processing, compounding, mining, or producing of any product, or used or consumed in the processing of recovered materials, or used in research and development related to manufacturing, processing, compounding, mining, or producing any product. The exemptions granted in this subsection shall not apply to local sales taxes as defined in section 32.085, RSMo, and the provisions of this subsection shall be in addition to any state and local sales tax exemption provided in section 144.030.

3. In addition to all other exemptions granted under this chapter, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed, or payable under sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085, RSMo, all utilities, machinery, and equipment used or consumed directly in television or radio broadcasting and all sales and purchases of tangible personal property, utilities, services, or any other transaction that would otherwise be subject to the state or local sales or use tax when such sales are made to or purchases are made by a contractor for use in fulfillment of any obligation under a defense contract with the United States government, and all sales and leases of tangible personal property by any county, city, incorporated town, or village, provided such sale or lease is authorized under chapter 100, RSMo, and such transaction is certified for sales tax exemption by the department of economic development, and tangible personal property used for railroad infrastructure brought into this state for processing, fabrication, or other modification for use outside the state in the regular course of business.

144.083. RETAIL SALES LICENSE REQUIRED FOR ALL COLLECTORS OF TAX — PREREQUISITE TO ISSUANCE OF CITY OR COUNTY OCCUPATION LICENSE — PREREQUISITE FOR SALES AT RETAIL. — 1. The director of revenue shall require all persons who are responsible for the collection of taxes under the provisions of section 144.080 to procure a retail sales license at no cost to the licensee which shall be prominently displayed at **[**his**]** **the licensee's** place of business, and the license is valid until revoked by the director or surrendered by the

person to whom issued when sales are discontinued. The director shall issue the retail sales license within ten working days following the receipt of a properly completed application. Any person applying for a retail sales license or reinstatement of a revoked sales tax license who owes any tax under sections 144.010 to 144.510 or sections 143.191 to 143.261, RSMo, must pay the amount due plus interest and penalties before the department may issue the applicant a license or reinstate the revoked license. All persons beginning business subsequent to August 13, 1986, and who are required to collect the sales tax shall secure a retail sales license prior to making sales at retail. Such license may, after ten days' notice, be revoked by the director of revenue only in the event the licensee shall be in default for a period of sixty days in the payment of any taxes levied under section 144.020 or sections 143.191 to 143.261, RSMo. **Notwithstanding the provisions of section 32.057, RSMo, in the event of revocation, the director of revenue may publish the status of the business account including the date of revocation in a manner as determined by the director.**

2. The possession of a retail sales license **and a statement from the department of revenue that the licensee owes no tax due under sections 144.010 to 144.510 or sections 143.191 to 143.261, RSMo,** shall be a prerequisite to the issuance or renewal of any city or county occupation license or any state license which is required for conducting any business where goods are sold at retail. **The date of issuance on the statement that the licensee owes no tax due shall be no more than ninety days before the date of submission for application or renewal of the local license.** The revocation of a retailer's license by the director shall render the occupational license or the state license null and void.

3. No person responsible for the collection of taxes under section 144.080 shall make sales at retail unless such person is the holder of a valid retail sales license. After all appeals have been exhausted, the director of revenue may notify the county or city law enforcement agency representing the area in which the former licensee's business is located that the retail sales license of such person has been revoked, and that any county or city occupation license of such person is also revoked. The county or city may enforce the provisions of this section, and may prohibit further sales at retail by such person.

4. In addition to the provisions of subsection 2 of this section, beginning January 1, 2009, the possession of a statement from the department of revenue stating no tax is due under sections 143.191 to 143.265, RSMo, or sections 144.010 to 144.510, shall also be a prerequisite to the issuance or renewal of any city or county occupation license or any state license required for conducting any business where goods are sold at retail. The statement of no tax due shall be dated no longer than ninety days before the date of submission for application or renewal of the city or county license.

5. Notwithstanding any law or rule to the contrary, sales tax shall only apply to the sale price paid by the final purchaser and not to any off-invoice discounts or other pricing discounts or mechanisms negotiated between manufacturers, wholesalers, and retailers.

144.518. EXEMPTION FOR MACHINES OR PARTS FOR MACHINES USED IN A COMMERCIAL, COIN-OPERATED AMUSEMENT AND VENDING BUSINESS. — 1. In addition to the exemptions granted pursuant to section 144.030, there is hereby specifically exempted from the provisions of sections **[**66.600 to 66.635, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, sections 67.550 to 67.594, RSMo, sections 67.665 to 67.667, RSMo, sections 67.671 to 67.685, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, sections 67.1000 to 67.1012, RSMo, section 82.850, RSMo, sections 92.325 to 92.340, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.570, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, section 94.660, RSMo, sections 94.700 to 94.755, RSMo, sections 94.800 to 94.825, RSMo, section 94.830, RSMo, sections 94.850 to 94.857, RSMo, sections 94.870 to 94.881, RSMo, section 94.890, RSMo, sections**]** 144.010 to 144.525, **[**and**]** sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, **[**sections**]** **section** 238.235 **[**and**], RSMo, section 238.236, RSMo,**

section 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, **[**and**]** section 644.032, RSMo, and **any local sales tax law as defined in section 32.085, RSMo, and** from the computation of the tax levied, assessed or payable pursuant to sections **[**66.600 to 66.635, RSMo, sections 67.391 to 67.395, RSMo, sections 67.500 to 67.545, RSMo, section 67.547, RSMo, sections 67.550 to 67.594, RSMo, sections 67.665 to 67.667, RSMo, sections 67.671 to 67.685, RSMo, sections 67.700 to 67.727, RSMo, section 67.729, RSMo, sections 67.730 to 67.739, RSMo, sections 67.1000 to 67.1012, RSMo, section 82.850, RSMo, sections 92.325 to 92.340, RSMo, sections 92.400 to 92.421, RSMo, sections 94.500 to 94.570, RSMo, section 94.577, RSMo, sections 94.600 to 94.655, RSMo, section 94.660, RSMo, sections 94.700 to 94.755, RSMo, sections 94.800 to 94.825, RSMo, section 94.830, RSMo, sections 94.850 to 94.857, RSMo, sections 94.870 to 94.881, RSMo, section 94.890, RSMo, sections**]** 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, **[**sections**]** **section** 238.235 **[**and**], RSMo, section 238.236, RSMo, section** 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, **[**and**]** section 644.032, RSMo, **[**machines or parts for machines used in a commercial, coin-operated amusement and vending business**] and any local sales tax law as defined in section 32.085, RSMo, coin-operated amusement devices and parts for such devices purchased prior to September 1, 2007,** where sales tax is paid on the gross receipts derived from the use of **[**commercial, coin-operated amusement and vending machines**] such devices**.

2. Beginning September 1, 2007, in addition to any other exemption provided by law, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.236, RSMo, section 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, section 644.032, RSMo, and any local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed, or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.236, RSMo, section 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, section 644.032, RSMo, and any local sales tax law as defined in section 32.085, RSMo, amounts paid for the temporary use of a coin-operated amusement device.

3. As used in this section, "coin-operated amusement device" means a device accepting payment or items representing payments to allow one or more users temporary use of the device for entertainment or amusement purposes. Examples of coin-operated amusement devices include, but are not limited to, video games, pinball games, table games such as billiards and air hockey, and redemption games such as the claw and skee ball that may award prizes of tangible personal property.

4. In addition to any other exemptions provided by law, there is hereby specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.236, RSMo, section 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, section 644.032, RSMo, and any local sales tax law as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed, or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.761, sections 190.335 to 190.337, RSMo, section 238.235, RSMo, section 238.236, RSMo, section 238.410, RSMo, section 321.242, RSMo, section 573.505, RSMo, section 644.032, RSMo, and any local sales tax law as defined in section 32.085, RSMo, vending machines or parts for vending machines used in a commercial vending business where sales tax is paid on the gross receipts derived from such vending machines.

163.016. DESIGNATION OF SCHOOL DISTRICT NUMBER (MONROE CITY). — Notwithstanding the provisions of section 163.011, for any school district located in more than one county and whose headquarters are located within a city of the fourth classification with more than two thousand five hundred but fewer than two thousand six

hundred inhabitants and located in more than one county, the county signified in the school district number shall be the county in the district with the highest dollar value modifier.

205.563. PROPERTY TAX FOR RURAL HEALTH CLINIC — BALLOT LANGUAGE — REVENUE, USE OF MONEYS (CITY OF CENTERVIEW) — 1. The governing body of a city of the fourth classification with more than two hundred but fewer than three hundred inhabitants and located in any county of the second classification with more than forty-eight thousand two hundred but fewer than forty-eight thousand three hundred inhabitants may impose, by order or ordinance, an annual real property tax to fund the construction, operation, and maintenance of a community health center. The tax authorized in this section shall not exceed thirty-five cents per year on each one hundred dollars of assessed valuation on all taxable real property within the city. Any city may enter into an agreement or agreements with taxing jurisdictions located at least partially within the incorporated limits of such city to levy the tax authorized under this section upon real property located within the jurisdiction of such district, but outside the incorporated limits of such city, provided that any taxing jurisdiction desiring to levy such tax shall first receive voter approval of such measure in the manner and form contained in this section. The tax authorized in this section shall be in addition to all other property taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within such city at a state general, primary, or special election a proposal to authorize the city to impose a tax under this section.

3. The question shall be submitted in substantially the following form:

"Shall the city of ..... and ..... district (if applicable) be authorized to impose a tax on owners of real property in an amount equal to ..... (insert amount not to exceed thirty-five cents) per one hundred dollars assessed valuation for the purpose of constructing, operating, and maintaining a community health center?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective in the tax year immediately following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

4. The tax authorized under this section shall be levied and collected in the same manner as other real property taxes are levied and collected within the city.

5. The governing body of any city that has imposed a real property tax under this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on the first day of the tax year immediately following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has imposed a real property tax under this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax, the governing body shall

submit to the voters of such city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on the first day of the tax year immediately following its approval. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. If the real property tax authorized under this section is repealed or terminated by any means, all funds collected under the tax shall continue to be used solely for the designated purposes.

208.750. TITLE — DEFINITIONS. — 1. Sections 208.750 to 208.775 shall be known and may be cited as the "Family Development Account Program".

2. For purposes of sections 208.750 to 208.775, the following terms mean:

(1) "Account holder", a person who is the owner of a family development account;

(2) "Community-based organization", any religious or charitable association formed pursuant to chapter 352, RSMo, **or any nonprofit corporation formed under chapter 355, RSMo,** that is approved by the director of the department of economic development to implement the family development account program;

(3) "Department", the department of economic development;

(4) "Director", the director of the department of economic development;

(5) "Family development account", a financial instrument established pursuant to section 208.760;

(6) "Family development account reserve fund", the fund created by an approved community-based organization for the purposes of funding the costs incurred in the administration of the program and for providing matching funds for moneys in family development accounts;

(7) "Federal poverty level", the most recent poverty income guidelines published in the calendar year by the United States Department of Health and Human Services;

(8) "Financial institution", any bank, trust company, savings bank, credit union or savings and loan association as defined in chapter 362, 369 or 370, RSMo, and with an office in Missouri which is approved by the director for participation in the program;

(9) "Program", the Missouri family development account program established in sections 208.750 to 208.775;

(10) "Program contributor", a person or entity who makes a contribution to a family development account reserve fund and is not the account holder.

238.410. TRANSIT AUTHORITY SALES TAX — ELECTION, BALLOT LANGUAGE, AMENDMENT OF TAX, REQUIREMENTS — DIRECTOR OF REVENUE, DUTIES — TRUST FUND ESTABLISHED — SURETY BONDS REQUIRED — DELINQUENT TAXES, PROCEDURE. — 1. Any county transit authority established pursuant to section 238.400 may impose a sales tax of up to one percent on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed under the provisions of this section shall be effective unless the governing body of the county, on behalf of the transit authority, submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the transit authority to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the . . . . . Transit Authority impose a countywide sales tax of . . . . . (insert amount) in order to provide revenues for the operation of transportation facilities operated by the transit authority?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective on the first day of the second calendar quarter following notification to the department of revenue of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the transit authority shall have no power to impose the sales tax authorized by this section unless and until another proposal to authorize the transit authority to impose the sales tax authorized by this section has been submitted and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by the transit authority from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely by the transit authority for construction, purchase, lease, maintenance and operation of transportation facilities located within the county for so long as the tax shall remain in effect. Any funds in such special trust fund which are not needed for current expenditures may be invested by the transit authority in accordance with applicable laws relating to the investment of county funds.

4. No transit authority imposing a sales tax pursuant to this section may repeal or amend such sales tax unless such repeal or amendment is submitted to and approved by the voters of the county in the same manner as provided in subsection 1 of this section for approval of such tax. Whenever the governing body of any county in which a sales tax has been imposed in the manner provided by this section receives a petition, signed by ten percent of the registered voters of such county voting in the last gubernatorial election, calling for an election to repeal such sales tax, the governing body shall submit to the voters of such county a proposal to repeal the sales tax imposed under the provisions of this section. If a majority of the votes cast on the proposal by the registered voters voting thereon are in favor of the proposal to repeal the sales tax, then such sales tax is repealed. If a majority of the votes cast by the registered voters voting thereon are opposed to the proposal to repeal the sales tax, then such sales tax shall remain in effect.

5. The sales tax imposed under the provisions of this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate approved pursuant to this section. The amount reported and returned to the director of revenue by the seller shall be computed on the basis of the combined rate of the tax imposed by sections 144.010 to 144.525, RSMo, and the tax imposed by this section, plus any amounts imposed under other provisions of law.

6. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed under this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the applicable provisions of section 144.285, RSMo, shall apply to all taxable transactions.

7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of

sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from the tax imposed by this section. All discounts allowed the retailer under the provisions of the state sales tax law for the collection of and for payment of taxes under chapter 144, RSMo, are hereby allowed and made applicable to any taxes collected under the provisions of this section. The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for a violation of those sections are hereby made applicable to violations of this section.

8. For the purposes of a sales tax imposed pursuant to this section, all retail sales shall be deemed to be consummated at the place of business of the retailer, except for tangible personal property sold which is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination and except for the sale of motor vehicles, trailers, boats and outboard motors, which is provided for in subsection 12 of this section. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which he works.

9. All sales taxes collected by the director of revenue under this section on behalf of any transit authority, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in this section, shall be deposited in the state treasury in a special trust fund, which is hereby created, to be known as the "County Transit Authority Sales Tax Trust Fund". The moneys in the county transit authority sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each transit authority imposing a sales tax under this section, and the records shall be open to the inspection of officers of the county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the transit authority which levied the tax.

10. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any transit authority for erroneous payments and overpayments made, and may authorize the state treasurer to redeem dishonored checks and drafts deposited to the credit of such transit authorities. If any transit authority abolishes the tax, the transit authority shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such transit authority, the director of revenue shall authorize the state treasurer to remit the balance in the account to the transit authority and close the account of that transit authority. The director of revenue shall notify each transit authority of each instance of any amount refunded or any check redeemed from receipts due the transit authority. The director of revenue shall annually report on his management of the trust fund and administration of the sales taxes authorized by this section. He shall provide each transit authority imposing the tax authorized by this section with a detailed accounting of the source of all funds received by him for the transit authority.

11. The director of revenue and any of his deputies, assistants and employees, who shall have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal,

disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of this section shall enter a surety bond or bonds payable to any and all transit authorities in whose behalf such funds have been collected under this section in the amount of one hundred thousand dollars; but the director of revenue may enter into a blanket bond or bonds covering himself and all such deputies, assistants and employees. The cost of the premium or premiums for the surety bond or bonds shall be paid by the director of revenue from the share of the collection retained by the director of revenue for the benefit of the state.

12. Sales taxes imposed pursuant to this section and use taxes on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a county where a sales tax is imposed under this section. The amounts so collected, less the one percent collection cost, shall be deposited in the county transit authority sales tax trust fund. The purchase or sale of motor vehicles, trailers, boats, and outboard motors shall be deemed to be consummated at the address of the applicant. As used in this subsection, the term "boat" shall only include motorboats and vessels as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

13. In any county where the transit authority sales tax has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this section or in the event a determination has been made against him for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under this section, the director of revenue shall notify the transit authority to which delinquent taxes are due under this section by United States registered mail or certified mail at least ten days before turning the case over to the attorney general. The transit authority, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such transit authority. In the event any person fails or refuses to pay the amount of any sales tax due under this section, the director of revenue shall promptly notify the transit authority to which the tax would be due so that appropriate action may be taken by the transit authority.

14. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax imposed by this section, the director of revenue shall permit the transit authority to join in any sale of property to pay the delinquent taxes and penalties due the state and to the transit authority under this section. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due such transit authority under this section.

15. The transit authority created under the provisions of sections 238.400 to 238.412 shall notify any and all affected businesses of the change in tax rate caused by the imposition of the tax authorized by sections 238.400 to 238.412.

16. In the event that any transit authority in any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants submits a proposal in any election to increase the sales tax under this section, and such proposal is approved by the voters, the county shall be reimbursed for the costs of submitting such proposal from the funds derived from the tax levied under this section.

320.093. INCOME TAX CREDIT FOR PURCHASE OF A DRY FIRE HYDRANT OR PROVISION OF WATER STORAGE FOR DRY HYDRANTS, REQUIREMENTS, LIMITATIONS AND EXPIRATION

DATE. — 1. Any person, firm or corporation who purchases a dry fire hydrant, as defined in section 320.273, or provides an acceptable means of water storage for such dry fire hydrant including a pond, tank or other storage facility with the primary purpose of fire protection within the state of Missouri, shall be eligible for a credit on income taxes otherwise due pursuant to chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as an incentive to implement safe and efficient fire protection controls. The tax credit, not to exceed five thousand dollars, shall be equal to fifty percent of the cost in actual expenditure for any new water storage construction, equipment, development and installation of the dry hydrant, including pipes, valves, hydrants and labor for each such installation of a dry hydrant or new water storage facility. The amount of the tax credit claimed for in-kind contributions shall not exceed twenty-five percent of the total amount of the contribution for which the tax credit is claimed.

2. Any amount of credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed seven years. The person, firm or corporation may elect to assign to a third party the approved tax credit. The certificate of assignment and other appropriate forms **[**must**]** **shall** be filed with the Missouri department of revenue and the department of economic development.

3. The person, firm or corporation shall make application for the credit to the department of economic development after receiving approval of the state fire marshal. The fire marshal shall establish by rule promulgated pursuant to chapter 536, RSMo, the requirements to be met based on the National Resources Conservation Service's **[**Missouri**]** Dry Hydrant Standard. The state fire marshal or designated local representative shall **review and** authorize **[**and issue a permit for**]** the construction and installation of any dry fire hydrant site. Only approved dry fire hydrant sites **[**will**]** **shall** be eligible for tax credits as indicated in this section. Under no circumstance shall such authority deny any entity the ability to provide a dry fire hydrant site when tax credits are not requested.

4. The department of **[**economic development**]** **public safety** shall certify to the department of revenue that the dry hydrant system meets the requirements to obtain a tax credit as specified in subsection 5 of this section.

5. In order to qualify for a tax credit under this section, a dry hydrant or new water storage facility **[**must**]** **shall** meet the following minimum requirements:

(1) Each body of water or water storage structure **[**must**]** **shall** be able to provide two hundred fifty gallons per minute for a continuous two-hour period during a fifty-year drought or freeze at a vertical lift of eighteen feet;

(2) Each dry hydrant **[**must**]** **shall** be located within twenty-five feet of an all-weather roadway and **[**must**]** **shall** be accessible to fire protection equipment;

(3) Dry hydrants shall be located a reasonable distance from other dry or pressurized hydrants; and

(4) The site shall provide a measurable economic improvement potential for rural development.

6. New credits shall not be awarded under this section after August 28, **[**2003**]** **2010**. The total amount of all tax credits allowed pursuant to this section is five hundred thousand dollars in any one fiscal year as approved by the director of the department of economic development.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, **[**1999**]** **2007**, shall be invalid and void.

387.075. RATE SCHEDULES FOR TRANSPORTATION OF CERTAIN HOUSEHOLD GOODS — APPLICATION AND FILING PROCEDURES. — 1. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, any common carrier that is authorized to transport household goods by a certificate issued under section 390.051, RSMo, may file one or more applications to the state highways and transportation commission for approval of rate schedules, applicable to that carrier's intrastate transportation of household goods, that authorize periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in the carrier's prudently incurred costs of providing transportation of property by motor vehicle. The filing of applications by common carriers under this section shall be authorized upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the filing of applications to the public service commission by an electrical, gas, or water corporation. These applications shall be made in such form, and shall contain such information, as the state highways and transportation commission reasonably may require.

2. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, the state highways and transportation commission shall consider and determine every application filed under subsection 1 of this section, upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the public service commission's consideration and determination of applications by an electrical, gas, or water corporation under that section.

3. In proceedings under this section, common carriers and the state highways and transportation commission shall be governed by the statutes and rules of practice and procedure that are applicable in motor carrier proceedings under this chapter and chapters 390, and 622, RSMo, except to the extent they are inconsistent with the requirements of this section. The statutes and rules that generally govern public service commission proceedings relating to electrical, gas, and water corporations shall not apply in proceedings under this section.

390.030. VEHICLES EXEMPTED — DISCRIMINATION PROHIBITED, WHEN. — 1. The provisions of this chapter shall not apply to:

(1) School buses;

(2) Taxicabs;

(3) Motor vehicles while being used exclusively to transport;

(a) Stocker and feeder livestock from farm to farm, or from market to farm,

(b) Farm or dairy products including livestock from a farm or dairy,

(c) Agricultural limestone or fertilizer to farms,

(d) Property from farm to farm,

(e) Raw forest products from farm, or

(f) Cotton, cottonseed, and cottonseed hulls;

(4) Motor vehicles when operated under contract with the federal government for carrying the United States mail and when on a trip provided in the contract;

(5) Motor vehicles used solely in the distribution of newspapers from the publisher to subscribers or distributors;

(6) The transportation of passengers or property performed by a carrier pursuant to a contract between the carrier and the state of Missouri or any civil subdivision thereof, where the transportation services are paid directly to the carrier by the state of Missouri or civil subdivision;

(7) Freight-carrying motor vehicles duly registered and licensed in conformity with the provisions of chapter 301, RSMo, for a gross weight of six thousand pounds or less;

(8) The transportation of passengers or property wholly within a municipality, or between contiguous municipalities, or within a commercial zone as defined in section 390.020, or within a commercial zone established by the division of motor carrier and railroad safety pursuant to the provisions of subdivision (4) of section 390.041; provided, the exemption in this subdivision

shall not apply to motor carriers of persons operating to, from or between points located wholly or in part in counties now or hereafter having a population of more than three hundred thousand persons, where such points are not within the same municipality and to motor carriers of commodities in bulk to include liquids, in tank or hopper type vehicles, and in a commercial zone as defined herein or by the division;

(9) Street railroads and public utilities other than common carriers as defined in section 386.020, RSMo;

(10) Motor vehicles whose operations in the state of Missouri are interstate in character and are limited exclusively to a municipality and its commercial zone;

(11) Motor vehicles, commonly known as tow trucks or wreckers, designed and exclusively used in the business of towing or otherwise rendering assistance to abandoned, disabled or wrecked vehicles;

(12) Motor vehicles while being used solely by a group of employees to commute to and from their place or places of employment, except that the motor vehicle must be driven by a member of the group.

2. Nothing contained in this section shall be deemed to exempt the vehicles of driveaway operators.

3. Except for the provisions of subdivision (5) of section 390.041, the provisions of this chapter shall not apply to private carriers.

4. No agency of state government nor any county or municipality or their agencies shall discriminate against any motor carrier or private carrier or deny any such carrier operating a motor vehicle public access to any building, facility or area owned by or operated for the public unless such discrimination or denial is based solely on reasonable vehicle size or weight considerations. The provisions of this subsection shall only apply in cities not within a county and first class counties with a charter form of government which adjoin any city not within a county.

5. Beginning January 1, 2008, the exemptions in subdivisions (8) and (10) of subsection 1 of this section shall not apply to intrastate motor carriers that transport household goods.

Approved June 13, 2007

SB 46 [SCS SB 46]

Creates the "Faith-Based Organization Liaison Act"

AN ACT to amend chapter 660, RSMo, by adding thereto one new section relating to faith-based organizations.

SECTION
A. Enacting clause.
660.750. Liaisons for faith-based organizations to be designated, duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 660, RSMo, is amended by adding thereto one new section, to be known as section 660.750, to read as follows:

660.750. LIAISONS FOR FAITH-BASED ORGANIZATIONS TO BE DESIGNATED, DUTIES. — 1. This act shall be known as the "Faith-Based Organization Liaison Act".

2. The director of the department of social services shall designate existing regional department employees to serve as liaisons to faith-based organizations in their regions.

3. The director shall ensure that the primary function of each employee designated as a liaison under this section is to:

(1) Communicate with faith-based organizations regarding the need for private community services to benefit persons in need of assistance who otherwise would require financial or other assistance under public programs administered by the department;

(2) Promote the involvement of faith-based organizations in working to meet community needs for assistance;

(3) Coordinate the department's efforts to promote involvement of faith-based organizations in providing community services with similar efforts of other state agencies; and

(4) Provide clear guidance to faith-based organizations of all the rights and responsibilities afforded to them under federal law, including but not limited to federal equal treatment, charitable choice regulations, and the establishment clause of the United States Constitution.

4. No liaison shall discriminate against any faith-based organization in carrying out the provisions of this section.

Approved July 13, 2007

SB 47 [HCS SCS SB 47]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding fire protection

AN ACT to repeal sections 320.200, 320.271, and 320.310, RSMo, and to enact in lieu thereof eight new sections relating to fire protection.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 320.200, 320.271, and 320.310, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 320.200, 320.271, 320.310, 320.330, 320.333, 320.336, 320.339, and 1, to read as follows:

320.200. DEFINITIONS. — As used in sections 320.200 to **[**320.270**]** **320.271**, unless the context requires otherwise, the following terms mean:

(1) "Division", the division of fire safety created in section 320.202;

(2) "Dwelling unit", one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities;

(3) **"Fire department", an agency or organization that provides fire suppression and related activities, including but not limited to, fire prevention, rescue, emergency medical services, hazardous material response, or special operation to a population within a fixed and legally recorded geographical area. The term "fire department" shall include any municipal fire department or any fire protection district as defined in section 321.010, RSMo, or voluntary fire protection association as defined in section 320.300, engaging in this type of activity;**

(4) "Fire loss", loss of or damage to property, or the loss of life or of personal injury, by fire, lightning, or explosion;

[(4)**]** **(5)** "Investigator", the supervising investigators and investigators appointed under sections 320.200 to 320.270;

[(5)**]** **(6)** "Owner", any person who owns, occupies, or has charge of any property;

[(6)**]** **(7)** "Privately occupied dwelling", a building occupied exclusively for residential purposes and having not more than two dwelling units;

[(7)**]** **(8)** "Property", property of all types, both real and personal, movable and immovable;

[(8)**]** **(9)** "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270.

320.271. INFORMATION TO BE FILED WITH FIRE MARSHAL, BY CERTAIN FIRE PROTECTION ORGANIZATIONS — WHEN — IDENTIFICATION NUMBERS. — All fire protection districts, fire departments, and all volunteer fire protection associations as defined in section 320.300 shall **complete and** file with the state fire marshal within sixty days after **[**August 13, 1988**]** **January 1, 2008**, and annually thereafter, **[**the name and address of the fire protection district, fire department, or volunteer fire protection association**]** **a fire department registration form provided by the state fire marshal. The state fire marshal may issue a fire department identification number to each registered fire protection district, fire department, or volunteer fire protection association based upon such registration. The state fire marshal may conduct periodic reviews of the information provided on each fire department registration form and may deny or revoke a fire department identification number based upon the information provided**.

320.310. BOUNDARIES, FILING WITH COUNTY — SOLE PROVIDERS, WHEN. — 1. All volunteer fire protection associations **[**may**]** **as defined in section 320.300 shall** identify the association's boundaries and file the same with the county administrative body**.**

2. Except as provided in section 320.090 and section 44.090, RSMo, and except for state agencies that engage in fire suppression and related activities, those fire protection districts, municipal fire departments, and volunteer fire protection associations, as defined in section 320.300, shall be the sole provider of fire suppression and related activities. For the purposes of this subsection, the term "related activities" shall mean only fire prevention, rescue, hazardous material response, or special operation within their legally defined boundaries.

3. Only upon approval by the governing body of a municipal fire department, fire protection district, or volunteer fire association registered with the office of the state fire marshal, as required by section 320.271, shall any other association, organization, group, or political subdivision be authorized to provide the fire suppression response and related activities referenced in subsection 2 of this section within the legally defined boundaries of any municipal fire department, fire protection district, or volunteer fire association.

4. Any such association, group, or political subdivision denied approval to operate within the established boundaries of a fire department or volunteer fire association may appeal that decision within thirty days of the decision to the circuit court having jurisdiction for a trial de novo.

5. Notwithstanding the provisions of subsections 2 and 3 of this section, ambulance services and districts which are or will be licensed, formed, or operated under chapter 190, RSMo, may provide emergency medical services and nonemergency medical transport within the geographic boundaries of a fire department. Nothing in this section shall supersede the provisions set forth in section 67.300, RSMo, chapter 190, RSMo, or chapter 321, RSMo.

320.330. CITATION OF LAW. — Sections 320.330 to 320.339 shall be known and may be cited as the "Volunteer Firefighter Job Protection Act".

320.333. DEFINITIONS. — 1. As used in sections 320.330 to 320.339, the phrase "volunteer firefighter" means any firefighter in the service of any fire department or fire protection district, including but not limited to any municipal, volunteer, rural, or subscription fire department or organization, or volunteer fire protection association, who receives no monetary compensation for his or her services.

2. The term "monetary compensation" includes any economic return for services and shall not include:

(1) Life insurance, sickness, health, disability, annuity, length of service, retirement, pension, and other employee-type fringe benefits;

(2) De minimus compensation to pay for fuel, minor costs related to transportation, and other minor operation costs.

320.336. TERMINATION FROM EMPLOYMENT PROHIBITED, WHEN — LOSS OF PAY PERMITTED, WHEN — WRITTEN VERIFICATION OF SERVICE PERMITTED — EMPLOYER NOTIFICATION REQUIREMENTS. — 1. No public or private employer shall terminate an employee for joining any fire department or fire protection district, including but not limited to any municipal, volunteer, rural, or subscription fire department or organization, a volunteer fire protection association, as a volunteer firefighter, Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team.

2. No public or private employer shall terminate an employee who is a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team because the employee, when acting as a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team is absent from or late to his or her employment in order to respond to an emergency before the time the employee is to report to his or her place of employment.

3. An employer may charge against the employee's regular pay any time that an employee who is a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team loses from employment because of the employee's response to an emergency in the course of performing his or her duties as a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team.

4. In the case of an employee who is a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team and who loses time from his or her employment in order to respond to an emergency in the course of performing his or her duties as a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team, the employer has the right to request the employee to provide the employer with a written statement from the supervisor or acting supervisor of the volunteer fire department or the commander of Missouri-1 Disaster Medical Assistance Team stating that the employee responded to an emergency and stating the time and date of the emergency.

5. An employee who is a volunteer firefighter, or a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team and who may be absent from or late to his or her employment in order to respond to an emergency in the course of performing his or her duties as a volunteer firefighter, or a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team shall make a reasonable effort to notify his or her employer that he or she may be absent or late.

320.339. WRONGFUL TERMINATION, CAUSE OF ACTION PERMITTED. — An employee who is terminated in violation of sections 320.330 to 320.339 may bring a civil action against his or her employer who violated sections 320.330 to 320.339. The employee may seek reinstatement to his or her former position, payment of back wages, reinstatement of fringe benefits, and, where seniority rights are granted, reinstatement of seniority rights. If the employee prevails in such an action, the employee shall be entitled to an award of reasonable attorney's fees and the costs of the action. The employee shall commence such an action within one year after the date of the employee's termination.

SECTION 1. INSPECTION LIMITATION — EFFECT OF SALE OR TRANSFER ON A LICENSE. — The inspection conducted under subsection 14 of section 190.105, RSMo, shall be limited to the verification of compliance with standards for renewal of an existing license, and shall not include the criteria set forth in subsection 3 of section 190.109, RSMo, or any other existing criteria required for the issuance of a license to a nonlicense holder or for a licensee seeking to expand its ambulance service area. Any licenses acquired upon a sale or transfer of any ground ambulance service ownership shall remain in full force and effect after the sale or transfer unless suspended or revoked for cause as provided in section 190.165, RSMo.

Approved June 30, 2007

SB 54 [HCS SCS SB 54]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates renewable energy targets for electric companies

AN ACT to repeal sections 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.470, 260.800, 386.887, 414.420, 444.772, and 643.079, RSMo, and to enact in lieu thereof thirty-nine new sections relating to environmental regulation, with an effective date and penalty provisions.

SECTION

260.249. Administrative penalties — not to be assessed for minor violation, definition — amount set by rule, payment when — appeal effect — surcharge due when — unpaid penalty, collection — time limitation to assess violation — judicial appeal — civil action effect, exception.
260.250. Major appliances, waste oil, yard waste and batteries, disposal restricted — recycling of certain items, addressed in solid waste management plan.
260.330. Landfill fee, amount — solid waste management fund, created, purpose — department to enforce — transfer station, fee charged — free disposal day, notice.
260.335. Distribution of fund moneys, uses — grants, distribution of moneys — advisory board, solid waste, duties.
260.360. Definitions.
260.470. Recording of sites, placed on or removed from registry — removal procedure.
260.800. Definitions.
260.1000. Citation of law.
260.1003. Definitions.
260.1006. Holder of an environmental covenant — department bound by covenant — rules for interests in real propoerty.
260.1009. Contents of a covenant.
260.1012. Enforceability of covenants, criteria.
260.1015. Use of real property subject to zoning laws and recorded instruments.
260.1018. Copy of covenant to be provided, to whom.
260.1021. Recording of a covenant, procedure.
260.1024. Covenants are perpetual, exceptions — department may terminate covenants, when.
260.1027. Amendment or termination of a covenant, requirements — interest in property not affected by amendment.
260.1030. Civil action may be maintained, when — department to maintain regulatory authority.
260.1033. Activity and use information system to be established, purpose — categories of sites — recording of amendments or termination, procedure, form.
260.1036. Inapplicability to storage tanks.
260.1039. Effect of act on certain federal laws.
386.890. Citation of law — definitions — retail electric suppliers, duties — metering equipment requirements — electrical energy generation units, calculation, requirements — report — rules — liability for damages.
393.1020. Citation of law — definitions.
393.1025. Electrical corporations, duties regarding technology — commission to adopt rules.
393.1030. Biennial report required, contents.
393.1035. Objectives, electricity production to count toward, when — blending of fuels permitted, when.
393.1040. Encouragement of reduced consumption, objective of act.
414.420. Commission, created, members — purpose.
444.772. Permit — application, contents, fees — amendment, how made — successor operator, duties of.
643.079. Fees, amount — deposit of moneys, where, subaccount to be maintained — civil action for failure to remit fees, effect upon permit — agencies, determination of fees.
1. Ethanol-blended fuel, requirements for state vehicle fleet.
386.887. Definitions — purchase and sale of electric energy to customer — generators, rules adopted, contracts — net energy measurement calculated by supplier — net metering not required, when.
B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.470, 260.800, 386.887, 414.420, 444.772, and 643.079, RSMo, are repealed and thirty-nine new sections enacted in lieu thereof, to be known as sections 256.700, 256.705, 256.710, 260.200, 260.211, 260.212, 260.240, 260.247, 260.249, 260.250, 260.330, 260.335, 260.360, 260.470, 260.800, 260.1000, 260.1003, 260.1006, 260.1009, 260.1012, 260.1015, 260.1018, 260.1021, 260.1024, 260.1027, 260.1030, 260.1033, 260.1036, 260.1039, 386.890, 393.1020, 393.1025, 393.1030, 393.1035, 393.1040, 414.420, 444.772, 643.079, and 1, to read as follows:

256.700. SURFACE MINING, FEE — DIRECTOR TO REQUIRE FEE, WHEN — AMOUNT OF FEE — EXPIRATION DATE — RULEMAKING AUTHORITY. — 1. Any operator desiring to engage in surface mining who applies for a permit under section 444.772, RSMo, shall in addition to all other fees authorized under such section, annually submit a geologic resources fee. Such fee shall be deposited in the geologic resources fund established and expended under section 256.705. For any operator of a gravel mining operation where

the annual tonnage of gravel mined by such operator is less than five thousand tons, there shall be no fee under this section.

2. The director of the department of natural resources may require a geologic resources fee for each permit not to exceed one hundred dollars. The director may also require a geologic resources fee for each site listed on a permit not to exceed one hundred dollars for each site. The director may also require a geologic resources fee for each acre permitted by the operator under section 444.772, RSMo, not to exceed ten dollars per acre. If such fee is assessed, the fee per acre on all acres bonded by a single operator that exceeds a total of three hundred acres shall be reduced by fifty percent. In no case shall the geologic resources fee portion for any permit issued under section 444.772, RSMo, be more than three thousand five hundred dollars.

3. Beginning August 28, 2007, the geologic resources fee shall be set at a permit fee of fifty dollars, a site fee of fifty dollars, and an acre fee of six dollars. Fees may be raised as allowed in this subsection by a regulation change promulgated by the director of the department of natural resources. Prior to such a regulation change, the director shall consult the industrial minerals advisory council created under section 256.710 in order to determine the need for such an increase in fees.

4. Fees imposed under this section shall become effective August 28, 2007, and shall expire on December 31, 2020. No other provisions of sections 256.700 to 256.710 shall expire.

5. The department of natural resources may promulgate rules to implement the provisions of sections 256.700 to 256.710. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

256.705. FUND CREATED, USE OF MONEYS. — 1. All sums received through the payment of fees under section 256.700 shall be placed in the state treasury and credited to the "Geologic Resources Fund" which is hereby created.

2. After appropriation by the general assembly, the money in such fund shall be expended to collect, process, manage, and distribute geologic and hydrologic resource information pertaining to mineral resource potential in order to assist the mineral industry and for no other purpose. Such funds shall be utilized by the division of geology and land survey within the department of natural resources.

3. Any portion of the fund not immediately needed for the purposes authorized shall be invested by the state treasurer as provided by the constitution and laws of this state. All income from such investments shall, unless otherwise prohibited by the constitution of this state, be deposited in the geologic resources fund. The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances in various funds to the general revenue fund at the end of each biennium shall not apply to funds in the geologic resources fund.

4. General revenue of the state or other state funds may be appropriated or expended for the administration of sections 256.700 to 256.710. The state geologist may enter into a memorandum of understanding or other agreement that allows for state or federal funds to supplement the geologic resources fund.

256.710. INDUSTRIAL MINERALS ADVISORY COUNCIL CREATED, MEMBERS, DUTIES, TERMS, VACANCIES. — 1. There is hereby created an advisory council to the state geologist

known as the "Industrial Minerals Advisory Council". The council shall be composed of nine members as follows:

(1) The director of the department of transportation or his or her designee;

(2) Eight representatives of the following industries appointed by the director of the department of natural resources:

(a) Three representing the limestone quarry operators;

(b) One representing the clay mining industry;

(c) One representing the sandstone mining industry;

(d) One representing the sand and gravel mining industry;

(e) One representing the barite mining industry; and

(f) One representing the granite mining industry.

The director of the department of natural resources or his or her designee shall act as chairperson of the council and convene the council as needed.

2. The advisory council shall:

(1) Meet at least once each year;

(2) Annually review with the state geologist the income received and expenditures made under sections 256.700 and 256.705;

(3) Consider all information and advise the director of the department of natural resources in determining the method and amount of fees to be assessed;

(4) In performing its duties under this subsection, represent the best interests of the Missouri mining industry;

(5) Serve in an advisory capacity in all matters pertaining to the administration of this section and section 256.700;

(6) Serve in an advisory capacity in all other matters brought before the council by the director of the department of natural resources.

3. All members of the advisory council, with the exception of the director of the department of transportation or his or her designee who shall serve indefinitely, shall serve for terms of three years and until their successors are duly appointed and qualified; except that, of the members first appointed:

(1) One member who represents the limestone quarry operators, the representative of the clay mining industry, and the representative of the sandstone mining industry shall serve terms of three years;

(2) One member who represents the limestone quarry operators, the representative of the sand and gravel mining industry, and the representative of the barite mining industry shall serve terms of two years; and

(3) One member who represents the limestone quarry operators, and the representative of the granite mining industry shall serve a term of one year.

4. All members shall be residents of this state. Any member may be reappointed.

5. All members shall be reimbursed for reasonable expenses incurred in the performance of their official duties in accordance with the reimbursement policy set by the director. All reimbursements paid under this section shall be paid from fees collected under section 256.700.

6. Every vacancy on the advisory council shall be filled by the director of the department of natural resources. The person selected to fill any such vacancy shall possess the same qualifications required by this section as the member he or she replaces and shall serve until the end of the unexpired term of his or her predecessor.

260.200. DEFINITIONS. — 1. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) **"Bioreactor", a municipal solid waste disposal area or portion of a municipal solid waste disposal area where the controlled addition of liquid waste or water accelerates both the decomposition of waste and landfill gas generation;**

(3) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

[(3)**]** **(4)** "City", any incorporated city, town, or village;

[(4)**]** **(5)** "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

[(5)**]** **(6)** "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

[(6)**]** **(7)** "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

[(7)**]** **(8)** "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(9) "Construction and demolition waste", waste materials from the construction and demolition of residential, industrial, or commercial structures, but shall not include materials defined as clean fill under this section;

[(8)**]** **(10)** "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

[(9)**]** **(11)** "Department", the department of natural resources;

[(10)**]** **(12)** "Director", the director of the department of natural resources;

[(11)**]** **(13)** "District", a solid waste management district established under section 260.305;

[(12)**]** **(14)** "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

[(13)**]** **(15)** "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

[(14)**]** **(16)** "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

[(15)**]** **(17)** "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

[(16)**]** **(18)** "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of

household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

[(17)**]** **(19)** "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

[(18)**]** **(20)** "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

[(19)**]** **(21)** "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

[(20)**]** **(22)** "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

[(21)**]** **(23)** "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

[(22)**]** **(24)** "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

[(23)**]** **(25)** "Motor vehicle", as defined in section 301.010, RSMo;

[(24)**]** **(26)** "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

[(25)**]** **(27)** "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

[(26)**]** **(28)** "Person", any individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution;

(29) "Plasma arc technology", a process that converts electrical energy into thermal energy. This electric arc is created when an ionized gas transfers electric power between two or more electrodes;

[(27)**]** **(30)** "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

[(28)**]** **(31)** "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

[(29)**]** **(32)** "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

[(30)**]** **(33)** "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

[(31)**]** **(34)** "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

[(32)**]** **(35)** "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

[(33)**]** **(36)** "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

[(34)**]** **(37)** "Scrap tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

[(35)**]** **(38)** "Scrap tire collection center", a site where scrap tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

[(36)**]** **(39)** "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

[(37)**]** **(40)** "Scrap tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates scrap tires;

[(38)**]** **(41)** "Scrap tire processing facility", a site where tires are reduced in volume by shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or disposal;

[(39)**]** **(42)** "Scrap tire site", a site at which five hundred or more scrap tires are accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap tires for the generation of energy or converts scrap tires to a useful product;

[(40)**]** **(43)** "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

[(41)**]** **(44)** "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

[(42)**]** **(45)** "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

[(43)**]** **(46)** "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

[(44)**]** **(47)** "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

[(45)**]** **(48)** "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(d) A plasma arc technology facility;

[(46)**]** **(49)** "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

[(47)**]** **(50)** "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in

chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

[(48)**]** **(51)** "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

[(49)**]** **(52)** "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

[(50)**]** **(53)** "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

2. For the purposes of this section and sections 260.270 to **[**260.278**]** **260.279** and any rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall be used synonymously with and in place of "waste", as it applies only to scrap tires.

260.211. DEMOLITION WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of demolition waste **[**in the first degree**]** if he purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of such waste **[**in violation of section 260.210**]** **on property in this state other than in a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health**. Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition waste **[**in the first degree**]** is a class **[**A misdemeanor**]** **D felony**. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste **[**in the first degree**]** is subject to a fine not to exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of demolition waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. **Any person who purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of his or her personal construction or demolition waste on his or her own property shall be guilty of a class C misdemeanor. If such person receives any amount of money, goods, or services in connection with permitting any other person to dispose of construction or demolition waste on his or her property, such person shall be guilty of a class D felony.**

3. The court shall order any person convicted of illegally disposing of demolition waste upon his own property for remuneration to clean up such waste and, if he fails to clean up the waste or if he is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

[3. Any person who pleads guilty or is convicted of criminal disposition of demolition waste in the first degree a second or subsequent time shall be guilty of a class D felony, and subject to the penalties provided in subsection 1 of this section in addition to those penalties prescribed by law.

4. A person commits the offense of criminal disposition of demolition waste in the second degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of demolition waste specified in subsection 1 of this section in violation of section 260.210. Criminal disposition of demolition waste in the second degree is a class C misdemeanor.

5. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste in the second degree is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed two thousand dollars.

6. Any person who pleads guilty or is convicted of criminal disposition of demolition waste in the second degree a second or subsequent time shall be guilty of a class D felony, and subject to the penalties provided in subsection 5 of this section in addition to those penalties prescribed by law.

7.**]** **4.** The court may order restitution by requiring any person convicted under this section to clean up any demolition waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up and properly disposing of demolition waste illegally dumped by other persons.

[8.**]** **5.** The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

6. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if he or she knows or should have known that his or her agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.

260.212. SOLID WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of solid waste **[**in the first degree**]** if he purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste **[**on any property in this state other than a sanitary landfill in violation of section 260.210**]** **on property in this state other than a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health**. Criminal disposition of solid waste **[**in the first degree**]** is a class **[**A misdemeanor**]** **D felony**. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste **[**in the first degree**]** is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. The court shall order any person convicted of illegally disposing of solid waste upon his own property for remuneration to clean up such waste and, if he fails to clean up the waste or

if he is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

3. [Any person who pleads guilty or is convicted of criminal disposition of solid waste in the first degree a second or subsequent time shall be guilty of a class D felony. If a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which equals at least three times the economic gain obtained by the person, and such fine may exceed the maximum established in this section.

4. A person commits the offense of criminal disposition of solid waste in the second degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of commercial or residential solid waste specified in subsection 1 of this section on any property in this state other than a permitted sanitary landfill in violation of section 260.210. Criminal disposition of solid waste in the second degree is a class C misdemeanor.

5. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste in the second degree is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed two thousand dollars.

6. Any person who pleads guilty or is convicted of criminal disposition of solid waste in the second degree a second or subsequent time shall be guilty of a class D felony. If a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which equals at least three times the economic gain obtained by the person, and such fine may exceed the maximum established in this subsection.

7.] The court may order restitution by requiring any person convicted under this section to clean up any commercial or residential solid waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up commercial or residential solid waste illegally dumped by other persons.

[8.] **4.** The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

[9.] **5.** Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if he knows or should have known that his agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.

260.240. VIOLATIONS, HOW PROCEEDED AGAINST — COUNTY REGULATIONS, HOW ENFORCED, PENALTY FOR VIOLATION — EXCEPTIONS. — 1. In the event the director determines that any provision of sections 260.200 to 260.245 **and 260.330** or any standard, rule, regulation, final order or approved plan promulgated pursuant thereto is being, was, or is in imminent danger of being violated, the director may, in addition to those remedies provided in section 260.230, cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or in the case of violations concerning a solid waste disposal area or a solid waste processing facility, for the assessment of a penalty not to exceed one thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper **or in the case of violations concerning a solid waste disposal area and in the case of a violation of section 260.330 by a solid waste processing facility, for the assessment of a penalty not to exceed five thousand dollars per day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper**. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 260.249. The director may request either the attorney general or a prosecuting attorney to bring any action authorized

in this section in the name of the people of the state of Missouri. Suit can be brought in any county where the defendant's principal place of business is located or where the violation occurred. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any rule, regulation, standard or order of a county commission, adopted pursuant to the provisions of sections 260.200 to 260.245, may be enforced in a civil action for mandatory or prohibitory injunctive relief or for the assessment of a penalty not to exceed **[**one**]** **five** hundred dollars per day for each day, or part thereof, that a violation of such rule, regulation, standard or order of a county commission occurred and continues to occur, or both, as the commission deems proper. The county commission may request the prosecuting attorney or other attorney to bring any action authorized in this section in the name of the people of the state of Missouri.

3. The liabilities imposed by this section shall not be imposed due to any violation caused by an act of God, war, strike, riot or other catastrophe.

260.247. ANNEXATION OR EXPANSION OF SOLID WASTE SERVICES BY CITY, NOTICE TO CERTAIN PRIVATE ENTITIES, WHEN — CITY TO CONTRACT WITH PRIVATE ENTITY, DURATION, TERMS. — 1. Any city **or political subdivision** which annexes an area or enters into or expands solid waste collection services into an area where the collection of solid waste is presently being provided by one or more private entities**, for commercial or residential services,** shall notify the private entity or entities of its intent to provide solid waste collection services in the area by certified mail.

2. A city **or political subdivision** shall not commence solid waste collection in such area for at least two years from the effective date of the annexation or at least two years from the effective date of the notice that the city **or political subdivision** intends to enter into the business of solid waste collection or to expand existing solid waste collection services into the area, unless the city **or political subdivision** contracts with the private entity or entities to continue such services for that period. **If for any reason the city or political subdivision does not exercise its option to provide for or contract for the provision of services within an affected area within three years from the effective date of the notice, then the city or political subdivision shall renotify under subsection 1 of this section.**

3. If the services to be provided under a contract with the city **or political subdivision** pursuant to subsection 2 of this section are substantially the same as the services rendered in the area prior to the decision of the city to annex the area or to enter into or expand its solid waste collection services into the area, the amount paid by the city shall be at least equal to the amount the private entity or entities would have received for providing such services during that period.

4. Any private entity or entities which provide collection service in the area which the city **or political subdivision** has decided to annex or enter into or expand its solid waste collection services into shall make available upon written request by the city not later than thirty days following such request, all information in its possession or control which pertains to its activity in the area necessary for the city to determine the nature and scope of the potential contract.

5. The provisions of this section shall apply to private entities that service fifty or more residential accounts or **[**fifteen or more**]** **any** commercial accounts in the area in question.

260.249. ADMINISTRATIVE PENALTIES — NOT TO BE ASSESSED FOR MINOR VIOLATION, DEFINITION — AMOUNT SET BY RULE, PAYMENT WHEN — APPEAL EFFECT — SURCHARGE DUE WHEN — UNPAID PENALTY, COLLECTION — TIME LIMITATION TO ASSESS VIOLATION — JUDICIAL APPEAL — CIVIL ACTION EFFECT, EXCEPTION. — 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule or regulation promulgated pursuant

thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard, limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or minor violations of any term or condition of a permit issued pursuant to sections 260.200 to 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from mismanagement of solid waste generated and managed on the property of the place of residence of the person. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by section 260.235. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The department shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section **[**260.230**]** **260.240**. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the department may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal as provided in section 260.235. Any appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the state constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date the department in the exercise of ordinary diligence should have discovered such alleged violation.

4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

5. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the administrative penalty.

260.250. MAJOR APPLIANCES, WASTE OIL, YARD WASTE AND BATTERIES, DISPOSAL RESTRICTED — RECYCLING OF CERTAIN ITEMS, ADDRESSED IN SOLID WASTE MANAGEMENT PLAN. — 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall not be disposed of in a solid waste disposal area**, except as otherwise provided in this subsection.**

After August 28, 2007, yard waste may be disposed of in a municipal solid waste disposal area or portion of a municipal solid waste disposal area provided that:

(1) The department has approved the municipal solid waste disposal area or portion of a solid waste disposal area to operate as a bioreactor under 40 CFR Part 258.4; and

(2) The landfill gas produced by the bioreactor shall be used for the generation of electricity.

2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

3. Each district, county and city shall address the recycling, reuse and handling of aluminum containers, glass containers, newspapers, whole tires, plastic beverage containers and steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

260.330. LANDFILL FEE, AMOUNT — SOLID WASTE MANAGEMENT FUND, CREATED, PURPOSE — DEPARTMENT TO ENFORCE — TRANSFER STATION, FEE CHARGED — FREE DISPOSAL DAY, NOTICE. — 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, **[**2009**]** **2014**, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, **[**2009**]** **2014**, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys shall be transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal

to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, **[**2009**]** **2014**, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, **[**2009**]** **2014**, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

260.335. DISTRIBUTION OF FUND MONEYS, USES — GRANTS, DISTRIBUTION OF MONEYS — ADVISORY BOARD, SOLID WASTE, DUTIES. — 1. Each fiscal year eight hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars from the solid waste management fund be used by the department upon appropriation for grants to solid waste management districts for district grants and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a proportionate share of these grants based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine percent of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, **[**2009**]** **2014**, under section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, **[**2009**]** **2014**, which shall be used solely to fund the operating costs of the department, shall be allocated through grants, upon appropriation, to participating cities, counties, and districts. Revenues to be allocated under this subdivision shall be divided as follows: forty percent shall be allocated based on the population of each district in the latest decennial census, and sixty percent shall be allocated based on the amount of revenue generated within each district. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. No more than fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon approval of the department for implementation of a solid waste management plan and district operations, and at least fifty percent of the revenue allocable to the districts under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties. Each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, 2005, each district shall receive a minimum of ninety-five thousand dollars under this subdivision for district grants and district operations. Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department. Moneys shall be awarded based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or inadequate applications may be reallocated pursuant to this subdivision;

(3) Except for the amount up to one-fourth of the department's previous fiscal year expense, any remaining unencumbered funds generated under subdivision (1) of this subsection in prior fiscal years shall be reallocated under this section;

(4) Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

(5) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. The advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. The funds awarded to the districts, counties and cities pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

5. The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to

submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant.

6. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

7. If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.

260.360. DEFINITIONS. — When used in sections 260.350 to 260.430 and in standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, the following words and phrases mean:

(1) "Cleanup", all actions necessary to contain, collect, control, treat, disburse, remove or dispose of a hazardous waste;

(2) "Commission", the hazardous waste management commission of the state of Missouri created by sections 260.350 to 260.430;

(3) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(4) "Department", the Missouri department of natural resources;

(5) "Detonation", an explosion in which chemical transformation passes through the material faster than the speed of sound, which is 0.33 kilometers per second at sea level;

(6) "Director", the director of the Missouri department of natural resources;

(7) "Disposal", the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste, or any constituent thereof, may enter the environment or be emitted into the air or be discharged into the waters, including groundwaters;

(8) "Final disposition", the location, time and method by which hazardous waste loses its identity or enters the environment, including, but not limited to, disposal, resource recovery and treatment;

(9) "Generation", the act or process of producing waste;

(10) "Generator", any person who produces waste;

(11) "Hazardous waste", any waste or combination of wastes, as determined by the commission by rules and regulations, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a present or potential threat to the health of humans or the environment;

(12) "Hazardous waste facility", any property that is intended or used for hazardous waste management including, but not limited to, storage, treatment and disposal sites;

(13) "Hazardous waste management", the systematic recognition and control of hazardous waste from generation to final disposition including, but not limited to, its identification, containerization, labeling, storage, collection, transfer or transportation, treatment, resource recovery or disposal;

(14) "Infectious waste", waste in quantities and characteristics as determined by the department by rule and regulation, including the following wastes known or suspected to be infectious: isolation wastes, cultures and stocks of etiologic agents, contaminated blood and blood products, other contaminated surgical wastes, wastes from autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals and antineoplastic chemotherapeutic materials; provided, however, that infectious waste does not mean waste treated to department specifications;

(15) "Manifest", a department form accompanying hazardous waste from point of generation, through transport, to final disposition;

(16) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(17) "Person", an individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(18) **"Plasma arc technology", a process that converts electrical energy into thermal energy. The plasma arc is created when a voltage is established between two points;**

(19) "Resource recovery", the reclamation of energy or materials from waste, its reuse or its transformation into new products which are not wastes;

[(19)**]** **(20)** "Storage", the containment or holding of waste at a designated location in such manner or for such a period of time, as determined in regulations adopted hereunder, so as not to constitute disposal of such waste;

[(20)**]** **(21)** "Treatment", the processing of waste to remove or reduce its harmful properties or to contribute to more efficient or less costly management or to enhance its potential for resource recovery including, but not limited to, existing or future procedures for biodegradation, concentration, reduction in volume, detoxification, fixation, incineration**, plasma arc technology,** or neutralization;

[(21)**]** **(22)** "Waste", any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded. "Waste" shall also include certain residual materials, to be specified by the rules and regulations, which may be sold for purposes of energy or materials reclamation, reuse or transformation into new products which are not wastes;

[(22)**]** **(23)** "Waste explosives", any waste which has the potential to detonate, or any bulk military propellant which cannot be safely disposed of through other modes of treatment.

260.470. RECORDING OF SITES, PLACED ON OR REMOVED FROM REGISTRY — REMOVAL PROCEDURE. — 1. When the director places a site on the registry as provided in section 260.440, and after the resolution of any appeal under section 260.455, he shall file with the county recorder of deeds the period during which the site was used as a hazardous waste disposal area. When the director finds that a site on the registry has been properly closed under subdivision (5) of subsection 3 of section 260.445 with no evidence of potential adverse impact, he shall file this finding with the county recorder of deeds. The county recorder of deeds shall file this information so that any purchaser will be given notice that the site has been placed on, or removed from, the registry.

2. Any owner of a registry site may petition the department to remove the site from the registry provided that:

(1) Corrective actions have addressed the contamination at the site in accordance with a department-approved risk-based corrective action plan;

(2) The department has issued a letter indicating that no further actions are required to address current risk from contaminants for the site; and

(3) An environmental covenant for the property that meets the requirements of sections 260.1000 to 260.1039 has been filed with the county recorder of deeds.

3. The department shall approve such a request unless the department determines that removal from the registry would result in significant current or future risk of harm to human health, public welfare, or the environment. In making such a determination, the department shall provide a written justification that considers the amount, toxicity, and persistence of any contaminants left in place and the stability of current site conditions. Any denial under this subsection may be appealed to the commission in the manner provided in section 260.460.

260.800. DEFINITIONS. — As used in sections 260.800 to 260.815, the following terms shall mean:

(1) "Governing body", any city, municipality, county or combination thereof, or an authority or agency created by intergovernmental compact;

(2) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

(3) "Waste to energy facility", any facility**, including plasma arc technology,** with the electric generating capacity of up to eighty megawatts which is fueled by solid waste.

260.1000. CITATION OF LAW. — Sections 260.1000 to 260.1039 shall be cited as the "Missouri Environmental Covenants Act".

260.1003. DEFINITIONS. — As used in sections 260.1000 to 260.1039, the following terms shall mean:

(1) "Activity and use limitations", restrictions or obligations with respect to real property created under sections 260.1000 to 260.1039;

(2) "Department", the Missouri department of natural resources or any other state or federal department that determines or approves the environmental response project under which the environmental covenant is created;

(3) "Common interest community", a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes, insurance premiums, maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community;

(4) "Environmental covenant", a servitude arising under an environmental response project that imposes activity and use limitations;

(5) "Environmental response project", a plan or work performed for environmental remediation of real property and conducted:

(a) Under a federal or state program governing environmental remediation of real property, including but not limited to the Missouri hazardous waste management law as specified in this chapter;

(b) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of the department; or

(c) Under a state voluntary cleanup program authorized in the Missouri hazardous waste management law as specified in this chapter;

(6) "Holder", the grantee of an environmental covenant as specified in section 260.1006;

(7) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, department, or instrumentality, or any other legal or commercial entity;

(8) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(9) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

260.1006. HOLDER OF AN ENVIRONMENTAL COVENANT — DEPARTMENT BOUND BY COVENANT — RULES FOR INTERESTS IN REAL PROPOERTY. — 1. Any person, including a person that owns an interest in the real property, the department, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

2. The rights of a department under sections 260.1000 to 260.1039 or under an environmental covenant, other than a right as a holder, is not an interest in real property.

3. A department is bound by any obligation it assumes in an environmental covenant, but a department does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than sections 260.1000 to 260.1039 except as provided in the covenant.

4. The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

(1) An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant;

(2) Sections 260.1000 to 260.1039 do not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant;

(3) A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person authorized by the governing board of the owners association;

(4) An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but shall not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

260.1009. CONTENTS OF A COVENANT. — 1. An environmental covenant shall:

(1) State that the instrument is an environmental covenant executed under sections 260.1000 to 260.1039;

(2) Contain a legally sufficient description of the real property subject to the covenant;

(3) Describe the activity and use limitations on the real property;

(4) Identify every holder;

(5) Be signed by the department, every holder, and unless waived by the department, every owner of the fee simple of the real property subject to the covenant; and

(6) Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

2. In addition to the information required by subsection 1 of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(1) Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;

(2) Requirements for periodic reporting describing compliance with the covenant;

(3) Rights of access to the property granted in connection with implementation or enforcement of the covenant;

(4) A brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

(5) Limitation on amendment or termination of the covenant in addition to those contained in sections 260.1024 and 260.1027; and

(6) Rights of the holder in addition to its right to enforce the covenant under section 260.1030.

3. In addition to other conditions for its approval of an environmental covenant, the department may require those persons specified by the department who have interests in the real property to sign the covenant.

260.1012. ENFORCEABILITY OF COVENANTS, CRITERIA. — 1. An environmental covenant that complies with sections 260.1000 to 260.1039 runs with the land.

2. An environmental covenant that is otherwise effective is valid and enforceable even if:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to a person other than the original holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden;

(5) It imposes an affirmative obligation on a person having an interest in the real property or on the holder;

(6) The benefit or burden does not touch or concern real property;

(7) There is no privity of estate or contract;

(8) The holder dies, ceases to exist, resigns, or is replaced; or

(9) The owner of an interest subject to the environmental covenant and the holder are the same person.

3. An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before the effective date of sections 260.1000 to 260.1039 is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection 2 of this section or because it was identified as an easement, servitude, deed restriction, or other interest. Sections 260.1000 to 260.1039 shall not apply in any other respect to such an instrument.

4. Sections 260.1000 to 260.1039 shall not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the laws of this state.

260.1015. USE OF REAL PROPERTY SUBJECT TO ZONING LAWS AND RECORDED INSTRUMENTS. — Sections 260.1000 to 260.1039 shall not authorize a use of real property that is otherwise prohibited by zoning, by law other than sections 260.1000 to 260.1039 regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by laws other than sections 260.1000 to 260.1039.

260.1018. COPY OF COVENANT TO BE PROVIDED, TO WHOM. — 1. A copy of an environmental covenant shall be provided by the persons and in the manner required by the department to:

(1) Each person that signed the covenant;

(2) Each person holding a recorded interest in the real property subject to the covenant;

(3) Each person in possession of the real property subject to the covenant;

(4) Each municipality or other unit of local government in which real property subject to the covenant is located; and

(5) Any other person the department requires.

2. The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

260.1021. RECORDING OF A COVENANT, PROCEDURE. — 1. An environmental covenant and any amendment or termination of the covenant shall be recorded in every county or city not within a county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

2. Except as otherwise provided in section 260.1024, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

260.1024. COVENANTS ARE PERPETUAL, EXCEPTIONS — DEPARTMENT MAY TERMINATE COVENANTS, WHEN. — 1. An environmental covenant is perpetual unless it is:

(1) By its terms, limited to a specific duration or terminated by the occurrence of a specific event;

(2) Terminated by consent under section 260.1027;

(3) Terminated by subsection 2 of this section;

(4) Terminated by foreclosure of an interest that has priority over the environmental covenant; or

(5) Terminated or modified in an eminent domain proceeding, but only if:

(a) The department that signed the covenant is a party to the proceeding;

(b) All persons identified in section 260.1027 are given notice of the pendency of the proceeding; and

(c) The court determines, after hearing, that the termination or modification will not adversely affect human health, public welfare, or the environment.

2. If the department that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in section 260.1027 have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The department's determination or its failure to make a determination upon request is subject to review under chapter 536, RSMo.

3. Except as otherwise provided in subsections 1 and 2 of this section, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or any similar doctrine.

4. An environmental covenant may not be extinguished, limited, or impaired by the application of chapter 442, RSMo, or chapter 444, RSMo.

260.1027. AMENDMENT OR TERMINATION OF A COVENANT, REQUIREMENTS — INTEREST IN PROPERTY NOT AFFECTED BY AMENDMENT. — 1. An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:

(1) The department;

(2) Unless this requirement is waived by the department, the current owner of the fee simple of the real property subject to the covenant;

(3) Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and

(4) The holder, except as otherwise provided in subsection 4 of this section.

2. If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.

3. Except for an assignment undertaken under a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

4. Except as otherwise provided in an environmental covenant:

(1) A holder may not assign its interest without consent of the other parties;

(2) A holder may be removed and replaced by agreement of the other parties specified in subsection 1 of this section.

5. A court of competent jurisdiction may fill a vacancy in the position of holder.

260.1030. CIVIL ACTION MAY BE MAINTAINED, WHEN — DEPARTMENT TO MAINTAIN REGULATORY AUTHORITY. — 1. A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:

(1) A party to the covenant;

(2) The department;

(3) Any person to whom the covenant expressly grants power to enforce;

(4) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant; or

(5) A municipality or other unit of local government in which the real property subject to the covenant is located.

2. Sections 260.1000 to 260.1039 do not limit the regulatory authority of the department under law other than sections 260.1000 to 260.1039 with respect to an environmental response project.

3. A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

260.1033. ACTIVITY AND USE INFORMATION SYSTEM TO BE ESTABLISHED, PURPOSE — CATEGORIES OF SITES — RECORDING OF AMENDMENTS OR TERMINATION, PROCEDURE, FORM. — 1. The department shall establish an activity and use limitation information system and ensure that it is maintained, that provides readily accessible information on sites with known contamination, and records the creation, amendment, and termination of covenants. The activity and use limitation information system shall distinguish clearly between three categories of sites contaminated with hazardous substance contamination:

(1) Sites where no investigation or remedial action has been performed, or where remedial actions are in progress but are not complete;

(2) Sites where remedial action has been taken to address known risks to human health, public welfare, and the environment and the site is suitable for certain land uses and the department has issued a letter indicating that the site is suitable for certain land uses and that further investigation and remedial action is not required;

(3) Sites where previous concerns about contamination should no longer be an issue because of removal of waste and contamination or investigation results that demonstrate that contamination is now below levels considered suitable for unrestricted use.

2. After an environmental covenant or an amendment or termination of a covenant is filed in the information system established under subsection 1 of this section, a notice of the covenant, amendment, or termination that complies with this section may be recorded in the land records in lieu of recording the entire covenant. Any such notice shall contain:

(1) A legally sufficient description and any available street address of the real property subject to the covenant;

(2) The name and address of the owner of the fee simple interest in the real property, the department, and the holder if other than the department;

(3) A statement that the covenant, amendment, or termination is available in an information system at the department, which discloses the method of any electronic access; and

(4) A statement that the notice is notification of an environmental covenant executed under sections 260.1000 to 260.1039.

3. A statement in substantially the following form, executed with the same formalities as a deed in this state, satisfies the requirements of subsection 2 of this section:

"1. This notice is filed in the land records of the ..... (political subdivision) of ..... (insert name of jurisdiction in which the real property is located) under Sections 260.1000 to 260.1039, RSMo.

2. This notice and the covenant, amendment or termination to which it refers may impose significant obligations with respect to the property described below.

3. A legal description of the property is attached as Exhibit A to this notice. The address of the property that is subject to the environmental covenant is ..... (insert address of property) (not available).

4. The name and address of the owner of the fee simple interest in the real property on the date of this notice is ..... (insert name of current owner of the property and the owner's current address as shown on the tax records of the jurisdiction in which the property is located).

5. The environmental covenant, amendment or termination was signed by ..... (insert name and address of the department).

6. The environmental covenant, amendment, or termination was filed in the information system on ..... (insert date of filing).

7. The full text of the covenant, amendment or termination and any other information required by the department is on file and available for inspection and copying in the information system maintained for that purpose by the department at ..... (insert address and room of building in which the information system is maintained). The covenant, amendment or termination may be found electronically at ..... (insert Internet address for covenant)."

260.1036. INAPPLICABILITY TO STORAGE TANKS. — Sections 260.1000 to 260.1039 shall not apply to aboveground or underground storage tanks as defined in section 319.100, RSMo.

260.1039. EFFECT OF ACT ON CERTAIN FEDERAL LAWS. — As authorized in 15 U.S.C. 7002, as amended, sections 260.1000 to 260.1039 modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but do not modify, limit, or supersede 15 U.S.C. Section 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

386.890. CITATION OF LAW — DEFINITIONS — RETAIL ELECTRIC SUPPLIERS, DUTIES — METERING EQUIPMENT REQUIREMENTS — ELECTRICAL ENERGY GENERATION UNITS, CALCULATION, REQUIREMENTS — REPORT — RULES — LIABILITY FOR DAMAGES. — 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric

utility, rural electric cooperative as provided in chapter 394, RSMo, or electrical corporation as provided in chapter 386, RSMo;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(c) Is located on a premises owned, operated, leased, or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel phase and synchronization with a retail electric supplier and has been approved by said retail electric supplier;

(e) Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

(f) Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

(g) Contains a mechanism that automatically disables the unit and interrupts the flow of electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted;

(4) "Department", the department of natural resources;

(5) "Net metering", using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period;

(6) "Renewable energy resources", electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the department;

(7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation regulated under this chapter, or rural electric cooperative under chapter 394, RSMo, that provides retail electric service in this state.

3. A retail electric supplier shall:

(1) Make net metering available to customer-generators on a first-come, first-served basis until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year, after which the commission for a public utility or the governing body for other electric utilities may increase the total rated generating capacity of net metering systems to an amount above five percent. However, in a given calendar year, no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

(2) Offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(3) Disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the supplier.

4. A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric supplier to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the retail electric supplier for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the retail electric supplier, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

5. Consistent with the provisions in this section, the net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(3) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period;

(4) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier;

(5) For any rural electric cooperative under chapter 394, RSMo, or municipal utility, upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit to the customer-generator may be provided by the wholesale generator.

6. (1) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed generation. No supplier shall impose any fee, charge, or other requirement not specifically authorized by this section or the rules promulgated under subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators, except that a retail electric supplier may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system;

(2) For systems of ten kilowatts or less, a customer-generator whose system meets the standards and rules under subdivision (1) of this subsection shall not be required to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance beyond what is required under subdivision (1) of this subsection and subsection 4 of this section;

(3) For customer-generator systems of greater than ten kilowatts, the commission for public utilities and the governing body for other utilities shall, by rule or equivalent formal action by each respective governing body:

(a) Set forth safety, performance, and reliability standards and requirements; and

(b) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests or distribution equipment, or purchase additional liability insurance.

7. (1) Applications by a customer-generator for interconnection of a qualified electric energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system, including but not limited to, a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the retail electric supplier within thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the supplier's system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subdivision (1) of subsection 6 of this section. If the application for interconnection is approved by the retail electric supplier and the customer-generator does not complete the interconnection within one year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(2) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application under subdivision (1) of this subsection.

8. Each commission-regulated supplier shall submit an annual net metering report to the commission, and all other non-regulated suppliers shall submit the same report to their respective governing body and make said report available to a consumer of the supplier upon request, including the following information for the previous calendar year:

(1) The total number of customer-generator facilities;

(2) The total estimated generating capacity of its net-metered customer-generators; and

(3) The total estimated net kilowatt-hours received from customer-generators.

9. The commission shall, within nine months of the effective date of this section, promulgate initial rules necessary for the administration of this section for public utilities, which shall include regulations ensuring that simple contracts will be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The governing body of a rural electric cooperative or municipal utility shall, within nine months of the effective date of this section, adopt policies establishing a simple

contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions.

11. For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

12. The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

13. The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536, RSMo, rules regarding mandatory disclosures of information by sellers of qualified electric generation units. Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

14. Any costs incurred under this act by a retail electric supplier shall be recoverable in that utility's rate structure.

15. No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this section have been met. For a consumer who violates this provision, a supplier may immediately and without notice disconnect the electric facilities of said consumer and terminate said consumer's electric service.

16. The manufacturer of any electric generation unit used by a customer-generator may be held liable for any damages to property or person caused by a defect in the electric generation unit of a customer-generator.

17. The seller, installer, or manufacturer of any electric generation unit who knowingly misrepresents the safety aspects of an electric generation unit may be held liable for any damages to property or person caused by the electric generation unit of a customer-generator.

393.1020. CITATION OF LAW — DEFINITIONS. — 1. It is the general assembly's intent to encourage the development and utilization of technically feasible and economical renewable technologies, creating cleaner and more sustainable forms of energy for the residents of the state. It is for this reason that sections 393.1020 to 393.1040 shall be known as the "Green Power Initiative".

2. The definitions provided in section 386.020, RSMo, shall apply to sections 393.1020 to 393.1040. As used in sections 393.1020 to 393.1040, the following terms mean:

(1) "Department", the department of natural resources;

(2) "Eligible renewable energy technology", sources of energy that shall be considered renewable for purposes of this section shall include but not be limited to the following:

(a) Solar, including photovoltaic cells, concentrating solar power technologies, and low temperature solar collectors;

(b) Wind;

(c) Hydroelectric, not including pump-storage;

(d) Hydrogen from renewable sources;

(e) Biomass, any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, animal waste, aquatic plants, biogas from landfills or wastewater treatment plants; and

(f) Other renewable energy sources defined by rule by the commission after consultation with the department;

(3) "Energy efficiency", verifiable reductions in energy consumption, or verifiable reductions in the rate of energy consumption growth, as defined by rule by the commission after consultation with the department, as a result of measures implemented by electrical corporations and electricity consumers which may include, but not be limited to, pricing signals, electronic controls, education, information, infrastructure improvements, and the use of high efficiency equipment and lighting;

(4) "Total retail electric sales", the kilowatt-hours of electricity delivered in a year by an electrical corporation to its Missouri retail customers.

393.1025. ELECTRICAL CORPORATIONS, DUTIES REGARDING TECHNOLOGY — COMMISSION TO ADOPT RULES. — 1. Each electrical corporation shall make a good faith effort to generate or procure sufficient electricity generated by an eligible renewable energy technology, and support energy efficiency measures, so that by 2012, four percent of total retail electric sales in the aggregate by electrical corporations is generated by eligible renewable energy technologies, increasing to eight percent by 2015, and eleven percent generated by eligible renewable energy technologies by 2020. Generation provided by any existing eligible renewable energy technology, owned, controlled, or purchased by electrical corporations, that are operational prior to August 28, 2007, shall be applied towards meeting the objective so long as it continues to generate electricity. Credit towards the objective also may be achieved through energy efficiency that includes electrical corporation and consumer efforts to reduce the consumption of electric energy. After consulting with the department, the commission may establish intermediate goals for the use of renewable energy technologies as part of its rulemaking process.

2. By July 1, 2008, the commission shall, after consultation with the department, adopt rules that integrate into its resource planning rules the renewable energy objective of subsection 1 of this section and the criteria and standards by which it will measure an electrical corporation's efforts to meet that objective to determine whether it is making the required good faith effort. In this rulemaking, the commission shall include criteria and standards that, at a minimum, shall:

(1) Protect against adverse economic impacts, including the costs of any transmission investments necessary to access eligible renewable energy technologies, on the ratepayers and shareholders;

(2) Protect against undesirable impacts on the reliability of each electrical corporation's system;

(3) Consider environmental compliance costs, present and future, of each source being evaluated; and

(4) Consider technical feasibility, providing for flexibility in meeting the objective in the event electrical corporations are, for good cause shown, unable to meet in aggregate the objective of this section.

3. In its rulemaking under this section, the commission shall provide for a weighted scale of how energy produced by various eligible renewable energy technologies shall count toward an electrical corporation's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels and shall establish a system that grants multiple credits toward the objective for those technologies and fuels the commission determines are in the public interest to encourage. The commission may also grant multiple credits toward the objective for generation in the

state or procurement of electricity generated in the state that uses an eligible renewable energy technology.

4. The commission shall develop rules as provided in this section in consultation with the department as necessary to implement the requirements of section 393.1025. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 393.1020 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

393.1030. BIENNIAL REPORT REQUIRED, CONTENTS. — 1. Each electric corporation shall submit to the commission a biennial report by December thirty-first, beginning in 2009, on its plans, activities, and progress with regard to the objective of section 393.1025, demonstrating to the commission that it is making the required good faith effort. The report must be submitted in a format prescribed by the commission, not to exceed fifty pages, and it shall include the following:

(1) Sufficient data to specify and verify the status of its renewable energy mix relative to the good faith objective;

(2) Sufficient data to specify and verify the status of the electric corporation's and its customers' energy efficiency efforts relative to the good faith objective;

(3) Efforts taken to meet the objective;

(4) Any obstacles encountered or anticipated in meeting the objective; and

(5) Potential solutions to the obstacles.

2. The commission shall compile the information provided under subsection 1 of this section and biennially report by July first, beginning in 2010, to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the chairs of the committees in the house of representatives and senate with jurisdiction over energy and environment policy issues, and the department as to the progress of electrical corporations in the state in increasing the amount of renewable energy provided to retail customers and increasing energy efficiency, with any recommendations for regulatory or legislative action. In addition, the Missouri director of the department of economic development shall issue a biennial report by July first, beginning in 2010, on the impact of the renewable portfolio standard on the Missouri economy and the director of the department of natural resources shall issue a biennial report by July first, beginning in 2010, on the environmental impact of sections 393.1020 to 393.1040. The biennial reporting requirements under this subsection shall end after July 1, 2022.

393.1035. OBJECTIVES, ELECTRICITY PRODUCTION TO COUNT TOWARD, WHEN — BLENDING OF FUELS PERMITTED, WHEN. — 1. Electricity produced by fuel combustion may only count toward an electrical corporation's objectives if the generation facility complies with all federal and state statutes and rules.

2. An electrical corporation may blend or co-fire a fuel listed in subsection 2 of section 393.1020, with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that section can be counted toward an electric corporation's renewable energy objectives.

393.1040. ENCOURAGEMENT OF REDUCED CONSUMPTION, OBJECTIVE OF ACT. — In addition to the renewable energy objectives set forth in sections 393.1025, 393.1030, and 393.1035, it is also the policy of this state to encourage electrical corporations to develop

and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity.

414.420. COMMISSION, CREATED, MEMBERS — PURPOSE. — 1. As used in this section, the term "alternative fuel" shall have the same meaning as in section 414.400.

2. There is hereby created the "Missouri **[**Ethanol and Other Renewable Fuel Sources**]** **Alternative Fuels** Commission" composed of **[**seven**]** **nine** members, including two members of the senate of different political parties appointed by the president pro tem of the senate, two members of the house of representatives of different political parties appointed by the speaker of the house, and **[**three**]** **five** other persons appointed by the governor, with the advice and consent of the senate. The members appointed by the governor **[**may include, but are not limited to,**]** **shall be** persons engaged in **[**the ethanol production industry**]** **industries that produce alternative fuels, wholesale alternative fuels, or retail alternative fuels,** and no more than two of such members shall **represent an alternative fuel producer, retailer, or wholesaler and no more than three of such members shall** be of the same political party. The members appointed by the governor shall be appointed for a term of four years**[**, except that of the first members appointed, one shall serve for a term of two years, one shall serve for a term of three years, and one shall serve for a term of four years**]**. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. The commission shall elect a member of its own group as chairman at the first meeting, which shall be called by the governor. The commission shall meet at least four times in a calendar year at the call of the chairman. **[**The commission shall promote the continued production of ethanol and the continued usage of ethanol and fuel ethanol blends, as defined in section 142.027, RSMo, and the production and usage of other renewable fuel sources, in this state. The commission shall report to each regular session of the general assembly its recommendations for legislation in the field of the promotion of the ethanol industry and related subjects in this state.**]** Members of the commission shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

3. The commission shall:

(1) Make recommendations to the governor and general assembly on changes to state law to facilitate the sale and distribution of alternative fuels and alternative fuel vehicles;

(2) Promote the development, sale, distribution, and consumption of alternative fuels;

(3) Promote the development and use of alternative fuel vehicles and technology that will enhance the use of alternative and renewable transportation fuels;

(4) Educate consumers about alternative fuels, including but not limited to ethanol and biodiesel;

(5) Develop a long-range plan for the state to reduce consumption of petroleum fuels; and

(6) Submit an annual report to the governor and the general assembly.

444.772. PERMIT — APPLICATION, CONTENTS, FEES — AMENDMENT, HOW MADE — SUCCESSOR OPERATOR, DUTIES OF. — 1. Any operator desiring to engage in surface mining shall make written application to the director for a permit.

2. Application for permit shall be made on a form prescribed by the commission and shall include:

(1) The name of all persons with any interest in the land to be mined;

(2) The source of the applicant's legal right to mine the land affected by the permit;

(3) The permanent and temporary post office address of the applicant;

(4) Whether the applicant or any person associated with the applicant holds or has held any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;

(5) The written consent of the applicant and any other persons necessary to grant access to the commission or the director to the area of land affected under application from the date of

application until the expiration of any permit granted under the application and thereafter for such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790 or any rule or regulation promulgated pursuant to them. Permit applications submitted by operators who mine an annual tonnage of less than ten thousand tons shall be required to include written consent from the operator to grant access to the commission or the director to the area of land affected;

(6) A description of the tract or tracts of land and the estimated number of acres thereof to be affected by the surface mining of the applicant for the next succeeding twelve months; and

(7) Such other information that the commission may require as such information applies to land reclamation.

3. The application for a permit shall be accompanied by a map in a scale and form specified by the commission by regulation.

4. The application shall be accompanied by a bond, security or certificate meeting the requirements of section 444.778**, a geologic resources fee authorized under section 256.700, RSMo,** and a permit fee approved by the commission not to exceed **[**six hundred**]** **one thousand** dollars. The commission may also require a fee for each site listed on a permit not to exceed **[**three**]** **four** hundred dollars for each site. If mining operations are not conducted at a site for six months or more during any year, the fee for such site for that year shall be reduced by fifty percent. The commission may also require a fee for each acre bonded by the operator pursuant to section 444.778 not to exceed **[**ten**]** **twenty** dollars per acre. If such fee is assessed, the per-acre fee on all acres bonded by a single operator that exceed a total of **[**one**]** **two** hundred acres shall be reduced by fifty percent. In no case shall the total fee for any permit be more than **[**two**]** **three** thousand **[**five hundred**]** dollars. Permit and renewal fees shall be established by rule**, except for the initial fees as set forth in this subsection,** and shall be set at levels that recover the cost of administering and enforcing sections 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall submit a report to the commission and the public each year that describes the number of employees and the activities performed the previous calendar year to administer sections 444.760 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the total cost of submitting an application shall be three hundred dollars. The issued permit shall be valid from the date of its issuance until the date specified in the mine plan unless sooner revoked or suspended as provided in sections 444.760 to 444.790. **Beginning August 28, 2007, the fees shall be set at a permit fee of eight hundred dollars, a site fee of four hundred dollars, and an acre fee of ten dollars, with a maximum fee of three thousand dollars. Fees may be raised as allowed in this subsection after a regulation change that demonstrates the need for increased fees.**

5. An operator desiring to have his or her permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond as may be required pursuant to the provisions of sections 444.760 to 444.790, the director shall, if the applicant complies with all applicable regulatory requirements, issue an amendment to the original permit covering the additional land described in the amended application.

6. An operation may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by the operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced proportionately.

7. Where mining or reclamation operations on acreage for which a permit has been issued have not been completed, the permit shall be renewed. The operator shall submit a permit renewal form furnished by the director for an additional permit year and pay a fee equal to an application fee calculated pursuant to subsection 4 of this section, but in no case shall the renewal fee for any operator be more than **[**two**]** **three** thousand **[**five hundred**]** dollars. For any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such

operator is less than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit renewal form furnished by the director for an additional permit year and payment of a fee of three hundred dollars. Upon receipt of the completed permit renewal form and fee from the operator, the director shall approve the renewal. With approval of the director and operator, the permit renewal may be extended for a portion of an additional year with a corresponding prorating of the renewal fee.

8. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the commission may release the first operator from all liability pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have been issued a permit and have otherwise complied with the requirements of sections 444.760 to 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former operator.

9. The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed method of operation, reclamation, and a conservation plan for the affected area including approximate dates and time of completion, and stating that the operation will meet the requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant to them.

10. At the time that a permit application is deemed complete by the director, the operator shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to section 493.050, RSMo, to publish legal notices in any county where the land is located. If the director does not respond to a permit application within forty-five calendar days, the application shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four consecutive weeks beginning no more than ten days after the application is deemed complete. The operator shall also send notice of intent to operate a surface mine by certified mail to the governing body of the counties or cities in which the proposed area is located, and to the last known addresses of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan area. The notices shall include the name and address of the operator, a legal description consisting of county, section, township and range, the number of acres involved, a statement that the operator plans to mine a specified mineral during a specified time, and the address of the commission. The notices shall also contain a statement that any person with a direct, personal interest in one or more of the factors the commission may consider in issuing a permit may request a public meeting, a public hearing or file written comments to the director no later than fifteen days following the final public notice publication date.

11. The commission may approve a permit application or permit amendment whose operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if it can be demonstrated by the operator that the conditions present at the surface mining location warrant an exception. The criteria accepted for consideration when evaluating the merits of an exception or variance to the requirements of sections 444.760 to 444.790 shall be established by regulations.

12. Fees imposed pursuant to this section shall become effective August 28, **[**2001**]** **2007**, and shall expire on December 31, **[**2007**]** **2013**. No other provisions of this section shall expire.

643.079. FEES, AMOUNT — DEPOSIT OF MONEYS, WHERE, SUBACCOUNT TO BE MAINTAINED — CIVIL ACTION FOR FAILURE TO REMIT FEES, EFFECT UPON PERMIT — AGENCIES, DETERMINATION OF FEES. — 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to 643.190 shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be **[**annually**]** set **every three years** by the commission by rule and shall be at least twenty-five dollars per ton of regulated air

contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. **If necessary, the commission may make annual adjustments to the fee by rule.** The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to 643.190, taking into account other moneys received pursuant to sections 643.010 to 643.190. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant emitted for the first four thousand tons of each contaminant emitted in the amount established by the commission pursuant to subsection 1 of this section, reduced according to the following schedule:

(1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be reduced by one hundred percent;

(2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

(3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the year 2000 unless the general assembly reimposes the fee.

4. Each air contaminant source with a permit issued under sections 643.010 to 643.190 shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the commission. An air contaminant source which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140 may deduct such fees from any amount due under this section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be applied retroactively.

5. Moneys collected under this section shall be transmitted to the director of revenue for deposit in appropriate subaccounts of the natural resources protection fund created in section 640.220, RSMo. A subaccount shall be maintained for fees paid by air contaminant sources which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the operating permits program authorized by Title V of the federal Clean Air Act, as amended. Another subaccount shall be maintained for fees paid by air contaminant sources which are not required to be permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to fund other air pollution control program activities. Another subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase I affected units which are subject to the requirements of Title IV, Section 404, of the federal

Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program activities. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the subaccounts shall be retained in the subaccounts. The per-ton fees established under subsection 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs of the program, but shall not be less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per ton of regulated air contaminant. The first adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general price level for the twelve-month period ending on August thirty-first of the previous calendar year.

6. The department may initiate a civil action in circuit court against any air contaminant source which has not remitted the appropriate fees within thirty days. In any judgment against the source, the department shall be awarded interest at a rate determined pursuant to section 408.030, RSMo, and reasonable attorney's fees. In any judgment against the department, the source shall be awarded reasonable attorney's fees.

7. The department shall not suspend or revoke a permit for an air contaminant source solely because the source has not submitted the fees pursuant to this section.

8. Any Phase I affected unit which is subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected generating unit to help fund the administration of sections 643.010 to 643.190. Thereafter, the service fee shall be annually set by the commission by rule, following public hearing, based on an annual allocation prepared by the department showing the details of all costs and expenses upon which such fees are based consistent with the department's reasonable needs to administer and implement sections 643.010 to 643.190 and to fulfill its responsibilities with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located on one or more contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads, highways and railroads, which is under the control of or owned by the permit holder and operated as a single enterprise.

9. The department of natural resources shall determine the fees due pursuant to this section by the state of Missouri and its departments, agencies and institutions, including two- and four-year institutions of higher education. The director of the department of natural resources shall forward the various totals due to the joint committee on capital improvements and the directors of the individual departments, agencies and institutions. The departments, as part of the budget process, shall annually request by specific line item appropriation funds to pay said fees and capital funding for projects determined to significantly improve air quality. If the general assembly fails to appropriate funds for emissions fees as specifically requested, the departments, agencies and institutions shall pay said fees from other sources of revenue or funds available. The state of Missouri and its departments, agencies and institutions may receive assistance from the small business technical assistance program established pursuant to section 643.173.

SECTION 1. ETHANOL-BLENDED FUEL, REQUIREMENTS FOR STATE VEHICLE FLEET. — The commissioner of administration shall ensure that no less than seventy percent of new purchases for the state vehicle fleet are flexible fuel vehicles that can operate on fuel blended with eighty-five percent ethanol.

[386.887. DEFINITIONS — PURCHASE AND SALE OF ELECTRIC ENERGY TO CUSTOMER — GENERATORS, RULES ADOPTED, CONTRACTS — NET ENERGY MEASUREMENT

CALCULATED BY SUPPLIER — NET METERING NOT REQUIRED, WHEN. — 1. This section shall be known and may be cited as the "Consumer Clean Energy Act".

2. As used in this section, the following terms mean:

(1) "Commission", the public service commission of the state of Missouri;

(2) "Customer-generator", a consumer of electric energy who purchases electric energy from a retail electric energy supplier and is the owner of a qualified net metering unit;

(3) "Local distribution system", facilities for the distribution of electric energy to the ultimate consumer thereof;

(4) "Net energy metering", a measurement of the difference between the electric energy supplied to a customer-generator by a retail electric supplier and the electric energy generated by a customer-generator that is delivered to a local distribution system at the same point of interconnection;

(5) "Qualified net metering unit", an electric generation unit which:

(a) Is owned by a customer-generator;

(b) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

(c) Has an electrical generating system with a capacity of not more than one hundred kilowatts;

(d) Is located on the premises that are owned, operated, leased or otherwise controlled by the customer-generator;

(e) Is interconnected and operates in parallel and in synchronization with a retail electric supplier; and

(f) Is intended primarily to offset part or all of the customer-generator's own electrical requirements;

(6) "Retail electric supplier" or "supplier", any person that sells electric energy to the ultimate consumer thereof;

(7) "Value of electric energy", the total resulting from the application of the appropriate rates, which may be time of use rates at the option of the supplier, to the quantity of electric energy produced from qualified net metering units or to the quantity of electric energy sold to customer-generators.

3. By August 28, 2003, each retail electric supplier shall adopt rates, charges, conditions and contract terms for the purchase from and the sale of electric energy to customer-generators. The commission, in consultation with the department and retail electric suppliers, shall develop a simple contract for such transactions and make it available to eligible customer-generators and retail electric suppliers. Upon agreement of the wholesale generator supplying electric energy to the retail electric supplier, at the option of the retail electric supplier, the purchase from the customer-generator may be by the wholesale generator. Any time of use or other rates charged for electric energy sold to customer-generators shall be the same as those made available to any other customers with the same net electric energy usage pattern including minimum bills and service availability charges. Rates for electric energy generated by the customer-generator from a qualified net generating unit and sold to the retail electric supplier or its wholesale generator shall be the avoided cost (time of use or nontime of use) of the generation used by the retail electric supplier to serve its other customers. Whenever a customer-generator with a qualified net generating unit uses any energy generation method entitled to eligibility under a minimum renewable energy generation requirement, the total amount of energy generated by that method shall be treated as generated by the generator providing electric energy to the retail electric supplier for purposes of such requirement. The wholesale generator, at the option of the retail electric supplier, shall receive credit for emissions avoided by the wholesale generator because of electric energy purchased by the wholesale generator or the retail electric supplier from a qualified net metering unit. If the supplier is required to file tariffs with the commission, the commission shall review the reasonableness of the charges provided in such tariffs.

4. Each retail electric supplier shall calculate the net energy measurement for a customer-generator in the following manner:

(1) The retail electric supplier shall individually measure both the electric energy produced and the electric energy consumed by the customer-generator during each billing period using an electric metering capable of such function, either by a single meter capable of registering the flow of electricity in two directions or by using multiple meters;

(2) If the value of the electric energy supplied by the retail electric supplier exceeds the value of the electric energy delivered by the customer-generator to the retail electric supplier during a billing period, then the customer-generator shall be billed for the net value of the electric energy supplied by the retail electric supplier in accordance with the rates, terms and conditions established by the retail electric supplier for customer-generators; and

(3) If the value of the electric energy generated by the customer-generator exceeds the value of the electric energy supplied by the retail electric supplier, then the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period; and

(b) Shall be credited for the excess value of the electric energy generated and supplied to the retail electric supplier during the billing period, with this credit appearing on the bill for the following billing period.

5. A retail electric supplier shall not be required to provide net metering service with respect to additional customer-generators after the date during any calendar year on which the total generating capacity of all customer-generators with qualified net metering units served by that retail electric supplier is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

6. Each retail electric supplier shall maintain and make available to the public records of the total generating capacity of customer-generators of the supplier that are using net metering, the type of generating systems and energy source used by the electric generating systems which customer-generators use. Each such retail electric supplier shall notify the commission when the total generating capacity of such customer-generators is equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the company's aggregate customer peak demand for the preceding calendar year.

7. Each qualified net metering unit used by a customer-generator shall meet all applicable safety, performance, synchronization, interconnection and reliability standards established by the commission, the National Electrical Safety Code, National Electrical Code, the Institute of Electrical, Electronics Engineers, and Underwriters Laboratories. Each qualified net metering unit used by a customer- generator shall also meet all reasonable standards and requirements established by the retail electric supplier to enhance employee, consumer and public safety and the reliability of electric service to the customer-generator and other consumers receiving electric service from the retail electric supplier. Each qualified net metering unit used by a customer-generator shall also comply with all applicable local building, electrical and safety codes. The customer-generator shall obtain liability insurance coverage in amounts and coverage as set by the commission by rule applicable to all qualified net metering units.

8. The cost of meeting the standards of subsection 7 of this section and any cost to install additional controls, to install additional metering, to perform or pay for additional tests or analysis of the effect of the operation of the qualified net metering unit on the local distribution system shall be paid by the customer-generator.

9. Applications by a customer-generator for interconnection to the distribution system shall include a copy of the plans and specifications for the qualified net metering unit for review and acceptance by the retail electric supplier. Prior to connection of the qualified net metering unit to the distribution system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subsection 7 of this section. Such applications shall be reviewed and responded to by the retail electric supplier within ninety days. If the application for interconnection is approved by the retail electric supplier, the retail electric supplier shall complete the

interconnection within fifteen days if electric service already exists to the premises, unless a later date is mutually agreeable to both the customer-generator and the retail electric supplier.

10. The sale of qualified net metering units shall be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536, RSMo, rules regarding mandatory disclosures of information by sellers of qualified net metering units. Such rules shall as a minimum require disclosure or the standards of subsection 7 of this section and potential liability of the owner or operator of a qualified net metering unit to third persons for personal injury or property damage as a result of negligent operation of a qualified net metering unit. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**]**

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2008.

Approved June 25, 2007

SB 62 [CCS HCS SCS SBs 62 & 41]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the laws on the use of force

AN ACT to repeal sections 476.083, 563.011, 563.031, 563.036, 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and 630.140, RSMo, and to enact in lieu thereof ten new sections relating to the criminal justice system, with penalty provisions.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 476.083, 563.011, 563.031, 563.036, 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and 630.140, RSMo, are repealed and

ten new sections enacted in lieu thereof, to be known as sections 476.083, 563.011, 563.031, 563.041, 563.074, 571.030, 571.080, 571.095, 571.111, and 630.140, to read as follows:

476.083. CIRCUIT COURT MARSHAL MAY BE APPOINTED IN CERTAIN CIRCUITS, POWERS AND DUTIES, SALARY, QUALIFICATIONS. — 1. In addition to any appointments made pursuant to section 485.010, RSMo, the presiding judge of each circuit containing one or more facilities operated by the department of corrections with an average total inmate population in all such facilities in the circuit over the previous two years of more than two thousand five hundred inmates may appoint a circuit court marshal to aid the presiding judge in the administration of the judicial business of the circuit by overseeing the physical security of the courthouse, serving court-generated papers and orders, and assisting the judges of the circuit as the presiding judge determines appropriate. Such circuit court marshal appointed pursuant to the provisions of this section shall serve at the pleasure of the presiding judge. The circuit court marshal authorized by this section is in addition to staff support from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks, and any other staff personnel which may otherwise be provided by law.

2. The salary of a circuit court marshal shall be established by the presiding judge of the circuit within funds made available for that purpose, but such salary shall not exceed ninety percent of the salary of the highest paid sheriff serving a county wholly or partially within that circuit. Personnel authorized by this section shall be paid from state funds or federal grant moneys which are available for that purpose and not from county funds.

3. Any person appointed as a circuit court marshal pursuant to this section shall have at least five years' prior experience as a law enforcement officer. In addition, any such person shall within one year after appointment, or as soon as practicable, attend a court security school or training program operated by the United States Marshal Service. In addition to all other powers and duties prescribed in this section, a circuit court marshal may:

(1) Serve process;

(2) Wear a concealable firearm**[**, pursuant to a permit granted under section 571.090, RSMo**]**; and

(3) Make an arrest based upon local court rules and state law, and as directed by the presiding judge of the circuit.

563.011. CHAPTER DEFINITIONS. — As used in this chapter **the following terms shall mean**:

(1) "Deadly force" **[**means**],** physical force which the actor uses with the purpose of causing or which he **or she** knows to create a substantial risk of causing death or serious physical injury**[**.**];**

(2) "Dwelling" **[**means**],** any building **[**or**],** inhabitable structure, **[**though movable or temporary, or a portion thereof, which is for the time being the actor's home or place of lodging.**]** **or conveyance of any kind, whether the building, inhabitable structure, or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night;**

(3) "Forcible felony", any felony involving the use or threat of physical force or violence against any individual, including but not limited to murder, robbery, burglary, arson, kidnapping, assault, and any forcible sexual offense;

[(3)**]** **(4)** "Premises"**,** includes any building, inhabitable structure and any real property**[**.**];**

[(4)**]** **(5)** "Private person" **[**means**],** any person other than a law enforcement officer**;**

(6) "Remain after unlawfully entering", to remain in or upon premises after unlawfully entering as defined in this section;

(7) "Residence", a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest;

(8) "Unlawfully enter", a person unlawfully enters in or upon premises when he or she enters such premises and is not licensed or privileged to do so. A person who,

regardless of his or her purpose, enters in or upon premises that are at the time open to the public does so with license unless he or she defies a lawful order not to enter, personally communicated to him or her by the owner of such premises or by another authorized person. A license to enter in a building that is only partly open to the public is not a license to enter in that part of the building that is not open to the public.

563.031. USE OF FORCE IN DEFENSE OF PERSONS. — 1. A person may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent he **or she** reasonably believes such force to be necessary to defend himself **or herself** or a third person from what he **or she** reasonably believes to be the use or imminent use of unlawful force by such other person, unless:

(1) The actor was the initial aggressor; except that in such case his **or her** use of force is nevertheless justifiable provided**:**

(a) He **or she** has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or

(b) He **or she** is a law enforcement officer and as such is an aggressor pursuant to section 563.046; or

(c) The aggressor is justified under some other provision of this chapter or other provision of law;

(2) Under the circumstances as the actor reasonably believes them to be, the person whom he **or she** seeks to protect would not be justified in using such protective force**;**

(3) The actor was attempting to commit, committing, or escaping after the commission of a forcible felony.

2. A person may not use deadly force upon another person under the circumstances specified in subsection 1 of this section unless**:**

(1) He **or she** reasonably believes that such deadly force is necessary to protect himself **or herself** or another against death, serious physical injury, **[**rape, sodomy or kidnapping or serious physical injury through robbery, burglary or arson**] or any forcible felony; or**

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person.

3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining.

[3.**] 4.** The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

[4.**] 5.** The defendant shall have the burden of injecting the issue of justification under this section.

563.041. USE OF PHYSICAL FORCE IN DEFENSE OF PROPERTY. — 1. A person may, subject to the limitations of subsection 2, use physical force upon another person when and to the extent that he **or she** reasonably believes it necessary to prevent what he **or she** reasonably believes to be the commission or attempted commission by such person of stealing, property damage or tampering in any degree.

2. A person may use deadly force under circumstances described in subsection 1 only when such use of deadly force is authorized under other sections of this chapter.

3. The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.

4. The defendant shall have the burden of injecting the issue of justification under this section.

563.074. JUSTIFICATION AS AN ABSOLUTE DEFENSE, WHEN. — 1. Notwithstanding the provisions of section 563.016, a person who uses force as described in sections 563.031, 563.041, 563.046, 563.051, 563.056, and 563.061 is justified in using such force and such fact shall be an absolute defense to criminal prosecution or civil liability.

2. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.

571.030. UNLAWFUL USE OF WEAPONS — EXCEPTIONS — PENALTIES. — 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050, RSMo, and possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, **or all qualified retired peace officers, as defined in subsection 10 of this section, and who carry the identification defined in subsection 11 of this section,** or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer **or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921**;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo; and

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031, RSMo.

6. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

8. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

9. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

10. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

11. The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

571.080. TRANSFER OF CONCEALABLE FIREARMS. — **[**1.**]** A person commits the crime of transfer of a concealable firearm **[**without a permit if:

(1) He buys, leases, borrows, exchanges or otherwise receives any concealable firearm, unless he first obtains and delivers to the person delivering the firearm a valid permit authorizing the acquisition of the firearm; or

(2) He sells, leases, loans, exchanges, gives away or otherwise delivers any concealable firearm, unless he first demands and receives from the person receiving the firearm a valid permit authorizing such acquisition of the firearm.

2. A permit to acquire a concealable firearm shall only be valid for thirty days after the issuance thereof.

3. Subsection 1 of this section shall not apply to the acquisition by or transfer of concealable firearms among manufacturers, wholesalers or retailers of firearms for purposes of commerce; nor shall it apply to antique firearms or replicas thereof; nor shall it apply to curio or relic firearms as defined in section 571.010.

4. Transfer of concealable firearms without a permit is a class A misdemeanor**] if such person violates 18 U.S.C. Section 922(b) or 18 U.S.C. Section 922(x)**.

571.095. CONFISCATION OF FIREARMS AND AMMUNITION, WHEN — EXCEPTIONS. — Upon conviction for or attempting to commit a felony in violation of any law perpetrated in whole or in part by the use of a firearm, the court may, in addition to the penalty provided by law for such offense, order the confiscation and disposal **or sale or trade to a licensed firearms dealer** of firearms and ammunition used in the commission of the crime or found in the possession or under the immediate control of the defendant at the time of his **or her** arrest. **The proceeds of any sale or gains from trade shall be the property of the police department or sheriff's department responsible for the defendant's arrest or the confiscation of the firearms and ammunition.** If such firearms or ammunition are not the property of the convicted felon, they shall be returned to their rightful owner if he **or she** is known and was not a participant in the crime. **Any proceeds collected under this section shall be deposited with the municipality or by the county treasurer into the county sheriff's revolving fund established in section 50.535, RSMo.**

571.111. FIREARMS TRAINING REQUIREMENTS — SAFETY INSTRUCTOR REQUIREMENTS — PENALTY FOR VIOLATIONS. — 1. An applicant for a concealed carry endorsement shall demonstrate knowledge of firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed carry endorsement:

(1) Submits a photocopy of a certificate of firearms safety training course completion, as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as defined in subsection 5 of this section; or

(2) Submits a photocopy of a certificate that shows the applicant completed a firearms safety course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(3) Is a qualified firearms safety instructor as defined in subsection 5 of this section**; or**

(4) Submits proof that the applicant currently holds any type of valid peace officer license issued under the requirements of chapter 590, RSMo; or

(5) Submits proof that the applicant is currently allowed to carry firearms in accordance with the certification requirements of section 217.710, RSMo; or

(6) Submits proof that the applicant is currently certified as any class of corrections officer by the Missouri department of corrections and has passed at least one eight-hour firearms training course, approved by the director of the Missouri department of corrections under the authority granted to him or her by section 217.105, RSMo, that includes instruction on the justifiable use of force as prescribed in chapter 563, RSMo.

2. A certificate of firearms safety training course completion may be issued to any applicant by any qualified firearms safety instructor. On the certificate of course completion the qualified firearms safety instructor shall affirm that the individual receiving instruction has taken and passed a firearms safety course of at least eight hours in length taught by the instructor that included:

(1) Handgun safety in the classroom, at home, on the firing range and while carrying the firearm;

(2) A physical demonstration performed by the applicant that demonstrated his or her ability to safely load and unload a revolver and a semiautomatic pistol and demonstrated his or her marksmanship with both;

(3) The basic principles of marksmanship;

(4) Care and cleaning of concealable firearms;

(5) Safe storage of firearms at home;

(6) The requirements of this state for obtaining a certificate of qualification for a concealed carry endorsement from the sheriff of the individual's county of residence and a concealed carry endorsement issued by the department of revenue;

(7) The laws relating to firearms as prescribed in this chapter;

(8) The laws relating to the justifiable use of force as prescribed in chapter 563, RSMo;

(9) A live firing exercise of sufficient duration for each applicant to fire a handgun, from a standing position or its equivalent, a minimum of fifty rounds at a distance of seven yards from a B-27 silhouette target or an equivalent target;

(10) A live fire test administered to the applicant while the instructor was present of twenty rounds from a standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.

3. A qualified firearms safety instructor shall not give a grade of "passing" to an applicant for a concealed carry endorsement who:

(1) Does not follow the orders of the qualified firearms instructor or cognizant range officer; or

(2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety instructor, poses a danger to the applicant or to others; or

(3) During the live fire testing portion of the course fails to hit the silhouette portion of the targets with at least fifteen rounds.

4. Qualified firearms safety instructors who provide firearms safety instruction to any person who applies for a concealed carry endorsement shall:

(1) Make the applicant's course records available upon request to the sheriff of the county in which the applicant resides;

(2) Maintain all course records on students for a period of no less than four years from course completion date; and

(3) Not have more than forty students in the classroom portion of the course or more than five students per range officer engaged in range firing.

5. A firearms safety instructor shall be considered to be a qualified firearms safety instructor by any sheriff issuing a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121 if the instructor:

(1) Is a valid firearms safety instructor certified by the National Rifle Association holding a rating as a personal protection instructor or pistol marksmanship instructor; or

(2) Submits a photocopy of a certificate from a firearms safety instructor's course offered by a local, state, or federal governmental agency; or

(3) Submits a photocopy of a certificate from a firearms safety instructor course approved by the department of public safety; or

(4) Has successfully completed a firearms safety instructor course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(5) Is a certified police officer firearms safety instructor.

6. Any firearms safety instructor who knowingly provides any sheriff with false information concerning an applicant's performance on the live fire exercise or test administered to the applicant by the instructor pursuant to subdivision (9) or (10) of subsection 2 of this section shall be guilty of a class C misdemeanor.

630.140. RECORDS CONFIDENTIAL, WHEN — MAY BE DISCLOSED, TO WHOM, HOW, WHEN — RELEASE TO BE DOCUMENTED — COURT RECORDS CONFIDENTIAL, EXCEPTIONS. — 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;

(2) The guardian or other person having legal custody of the patient, resident or client;

(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632, RSMo.

3. The facilities or services may disclose information and records under any of the following:

(1) As authorized by the patient, resident or client;

(2) To persons or agencies responsible for providing health care services to such patients, residents or clients;

(3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

(5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

(6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;

(7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

(8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632, RSMo;

(9) To the department of social services or the department of health and senior services as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client;

(11) To parents, legal guardians, treatment professionals, law enforcement officers, and other individuals who by having such information could mitigate the likelihood of a suicide. The facility treatment team shall have determined that the consumer's safety is at some level of risk.

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632, RSMo, shall be confidential and available only to the patient, the patient's attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, **[**and**]** to the petitioner and the petitioner's attorney**, and to the Missouri state highway patrol for reporting to the National Instant Criminal Background Check System (NICS)**. In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this section.

[563.036. USE OF PHYSICAL FORCE IN DEFENSE OF PREMISES. — 1. A person in possession or control of premises or a person who is licensed or privileged to be thereon, may, subject to the provisions of subsection 2 of this section, use physical force upon another person when and to the extent that he reasonably believes it necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of the crime of trespass by the other person.

2. A person may use deadly force under circumstances described in subsection 1 of this section only:

(1) When such use of deadly force is authorized under other sections of this chapter; or

(2) When he reasonably believes it necessary to prevent what he reasonably believes to be an attempt by the trespasser to commit arson or burglary upon his dwelling; or

(3) When entry into the premises is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth, and he reasonably believes that the entry is attempted or made for the purpose of assaulting or offering physical violence to any person or being in the premises and he reasonably believes that force is necessary to prevent the commission of a felony.

3. The defendant shall have the burden of injecting the issue of justification under this section.**]**

[571.090. PERMIT TO ACQUIRE CONCEALABLE WEAPON, REQUIREMENTS, CONTENTS — SHERIFF TO ISSUE, WHEN, FEE — INELIGIBLE PERSONS — DENIAL OF PERMIT, CONTENT — APPEAL PROCEDURE, FORM — VIOLATION, PENALTY. — 1. A permit to acquire a concealable firearm shall be issued by the sheriff of the county in which the applicant resides, if all of the statements in the application are true, and the applicant:

(1) Is at least twenty-one years of age, a citizen of the United States and has resided in this state for at least six months;

(2) Has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(4) Has not been discharged under dishonorable conditions from the United States armed forces;

(5) Is not publicly known to be habitually in an intoxicated or drugged condition; and

(6) Is not currently adjudged mentally incompetent and has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state.

2. Applications shall be made to the sheriff of the county in which the applicant resides. An application shall be filed in writing, signed and verified by the applicant, and shall state only the following: the name, Social Security number, occupation, age, height, color of eyes and hair, residence and business addresses of the applicant, the reason for desiring the permit, and whether the applicant complies with each of the requirements specified in subsection 1 of this section.

3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri operator's license or other suitable identification. The sheriff shall issue the permit within a period not to exceed seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays.

The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 of this section have not been met, or if he has reason to believe that the applicant has rendered a false statement regarding any of the provisions in subsection 1 of this section. If the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant.

4. The permit shall recite the date of issuance, that it is invalid after thirty days, the name and address of the person to whom granted, the nature of the transaction, and a physical description of the applicant. The applicant shall sign the permit in the presence of the sheriff.

5. If the permit is used, the person who receives the permit from the applicant shall return it to the sheriff within thirty days after its expiration, with a notation thereon showing the date and manner of disposition of the firearm and a description of the firearm including the make, model and serial number. The sheriff shall keep a record of all applications for permits, his action thereon, and shall preserve all returned permits.

6. No person shall in any manner transfer, alter or change a permit, or make a false notation thereon, or obtain a permit upon any false representation, or use, or attempt to use a permit issued to another.

7. For the processing of the permit, the sheriff in each county and the city of St. Louis shall charge a fee not to exceed ten dollars which shall be paid into the treasury of the county or city to the credit of the general revenue fund.

8. In any case when the sheriff refuses to issue or to act on an application for a permit, such refusal shall be in writing setting forth the reasons for such refusal. Such written refusal shall explain the denied applicant's right to appeal and, with a copy of the completed application, shall be given to the denied applicant within a period not to exceed seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays. The denied applicant shall have the right to appeal the denial within ten days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall apply to such appeals.

9. A denial of or refusal to act on an application for permit may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially

similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of..... Missouri

Case Number.....

....., Denied Applicant)
)
vs.)
)
....., Sheriff)

Return Date.....

DENIAL OF PERMIT APPEAL

The denied applicant states that his properly completed application for a permit to acquire a firearm with a barrel of less than sixteen inches was denied by the sheriff of ..... County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

.....
Denied Applicant

10. The notice of appeal in a denial of permit appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

11. If at the hearing the person shows he is entitled to the requested permit, the court shall issue an appropriate order to cause the issuance of the permit. Costs shall not be assessed against the sheriff in any case.

12. Any person aggrieved by any final judgment rendered by a small claims court in a denial of permit appeal may have a trial de novo as provided in sections 512.180 to 512.320, RSMo.

13. Violation of any provision of this section is a class A misdemeanor.**]**

Approved July 3, 2007

SB 64 [CCS#3 HCS SCS SB 64]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes school districts to set school opening date up to a certain date prior to Labor Day and provides for exemption to make-up days requirement based on inclement weather

AN ACT to repeal sections 160.041, 167.121, 171.031, and 171.033, RSMo, and to enact in lieu thereof five new sections relating to education.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.041, 167.121, 171.031, and 171.033, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 160.041, 161.375, 167.121, 171.031, and 171.033, to read as follows:

160.041. MINIMUM SCHOOL DAY, SCHOOL MONTH, SCHOOL YEAR, DEFINED — REDUCTION OF REQUIRED NUMBER OF HOURS AND DAYS, WHEN. — 1. The "minimum school day" consists of three hours in which the pupils are under the guidance and direction of teachers in the teaching process. A "school month" consists of four weeks of five days each. The "school year" commences on the first day of July and ends on the thirtieth day of June following.

2. Notwithstanding the provisions of subsection 1 of this section, the commissioner of education is authorized to reduce the required number of hours and days in which the pupils are under the guidance and direction of teachers in the teaching process if:

(1) There is damage to or destruction of a public school facility which requires the dual utilization of another school facility; or

(2) Flooding **or other inclement weather as defined in subsection 1 of section 171.033, RSMo,** prevents students from attending the public school facility.

Such reduction **shall** not **[**to**]** extend beyond two calendar years in duration.

161.375. TEACHERS AND PRINCIPALS, STANDARDS FOR HIGH-QUALITY MENTORING TO BE DEVELOPED. — 1. The department of elementary and secondary education shall develop standards for high-quality mentoring for beginning teachers and beginning principals no later than June 30, 2008. The standards shall be applicable to all public schools and shall be developed to ensure that the required district mentoring programs under subsection 3 of section 168.021, RSMo, meet common objectives.

2. Such standards shall be established for both of the required years of mentoring under subsection 3 of section 168.021, RSMo, and shall be based upon, but not be limited to, the following principles:

(1) Every district shall have a teacher-driven mentor program in collaboration with and support of the administration;

(2) Guidance and support are required for all beginning teachers, regardless of when they enter the profession;

(3) Communication between mentors and beginning teachers is open and confidential;

(4) Quality mentors are necessary to establish beginning teachers' trust and respect for their colleagues and profession; and

(5) All staff members provide informal support for beginning teachers.

3. Quality mentor programs shall include, but not be limited to, the following:

(1) An introduction to the cultural environment of the community and the school district;

(2) A systemic and ongoing evaluation by all stakeholders;

(3) An individualized plan for beginning teachers that aligns with the district's goals and needs;

(4) Appropriate criteria for selecting mentors;

(5) Comprehensive mentor training;

(6) A complete list of responsibilities for the mentor, beginning teacher, and administrators; and

(7) Sufficient time for mentors to observe beginning teachers and for the beginning teachers to observe master teachers, structured to provide multiple opportunities over time and to minimize the need to require substitute teachers to facilitate observation.

4. In developing such standards, the department shall involve representatives who are Missouri certified teachers, administrators, and others.

167.121. ASSIGNMENT OF PUPIL TO ANOTHER DISTRICT — TUITION, HOW PAID, AMOUNT — LAPSED, UNACCREDITED, AND PROVISIONALLY UNACCREDITED DISTRICTS, ENROLLMENT IN VIRTUAL SCHOOL PERMITTED. — 1. If the residence of a pupil is so located that attendance in the district of residence constitutes an unusual or unreasonable transportation hardship because of natural barriers, travel time, or distance, the commissioner of education or his designee may assign the pupil to another district. Subject to the provisions of this section, all existing assignments shall be reviewed prior to July 1, 1984, and from time to time thereafter, and may be continued or rescinded. The board of education of the district in which the pupil lives shall pay the tuition of the pupil assigned. The tuition shall not exceed the pro rata cost of instruction.

2. (1) For the school year beginning July 1, 2008, and each succeeding school year, a parent or guardian residing in a lapsed public school district or a district that has scored either unaccredited or provisionally accredited, or a combination thereof, on two consecutive annual performance reports may enroll the parent's or guardian's child in the Missouri virtual school created in section 161.670, RSMo, provided the pupil first enrolls in the school district of residence. The school district of residence shall include the pupil's enrollment in the virtual school created in section 161.670, RSMo, in determining the district's average daily attendance. Full-time enrollment in the virtual school shall constitute one average daily attendance equivalent in the school district of residence. Average daily attendance for part-time enrollment in the virtual school shall be calculated as a percentage of the total number of virtual courses enrolled in divided by the number of courses required for full-time attendance in the school district of residence.

(2) A pupil's residence, for purposes of this section, means residency established under section 167.020, RSMo. Except for students residing in a K-8 district attending high school in a district under section 167.131, RSMo, the board of the home district shall pay to the virtual school the amount required under section 161.670, RSMo.

(3) Nothing in this section shall require any school district or the state to provide computers, equipment, Internet or other access, supplies, materials or funding, except as provided in this section, as may be deemed necessary for a pupil to participate in the virtual school created in section 161.670, RSMo.

(4) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

171.031. BOARD TO PREPARE CALENDAR — MINIMUM TERM — OPENING DATES — EXEMPTIONS — HOUR LIMITATION. — 1. Each school board shall prepare annually a calendar for the school term, specifying the opening date and providing a minimum term of at least one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance. **In addition, such calendar shall include six makeup days for possible loss of attendance due to inclement weather as defined in subsection 1 of section 171.033.**

2. **Each local school district may set its opening date each year, which date shall be no earlier than ten calendar days prior to the first Monday in September. No public school district shall select an earlier start date unless the district follows the procedure set forth in subsection 3 of this section.**

3. A district may set an opening date that is more than ten calendar days prior to the first Monday in September only if the local school board first gives public notice of a public meeting to discuss the proposal of opening school on a date more than ten days prior to the first Monday in September, and the local school board holds said meeting and, at the same public meeting, a majority of the board votes to allow an earlier opening date. If all of the previous conditions are met, the district may set its opening date more than ten calendar days prior to the first Monday in September. The condition provided in this subsection must be satisfied by the local school board each year that the board proposes an opening date more than ten days before the first Monday in September.

4. If any local district violates the provisions of this section, the department of elementary and secondary education shall withhold an amount equal to one quarter of the state funding the district generated under section 163.031, RSMo, for each date the district was in violation of this section.

5. The provisions of subsections 2 to 4 of this section shall not apply to school districts in which school is in session for twelve months of each calendar year.

6. The state board of education may grant an exemption from this section to a school district that demonstrates highly unusual and extenuating circumstances justifying exemption from the provisions of subsections 2 to 4 of this section. Any exemption granted by the state board of education shall be valid for one academic year only.

7. No school day shall be longer than seven hours except for vocational schools which may adopt an eight-hour day in a metropolitan school district and a school district in a first class county adjacent to a city not within a county.

171.033. MAKE-UP OF DAYS LOST OR CANCELED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. **[**Except as provided in subsections 3 and 4 of this section, no school district shall be exempt from any requirement to make up any days of school lost or canceled due to inclement weather, unless that school district schedules at least two-thirds as many make-up days for a school year as were lost in the previous school year, which days shall be in addition to the school calendar days required for a school term by section 171.031**] "Inclement weather", for purposes of this section, shall be defined as ice, snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat**.

2. **[**If, after using the make-up days referred to in subsection 1, a district does not meet the requirement for a term of one hundred seventy-four days of actual pupil attendance, it**] A district** shall be required to make up **[**no more than eight additional**] the first six** days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of **[**eight**] six** days.

3. In the 2005-06 school year, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather occurring after April 1, 2006, in the school district, but such reduction of the minimum number of school days shall not exceed five days when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant to subsection 1 of this section shall be waived for the 2006-07 school year.

4. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days and one thousand forty-four

hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

Approved June 18, 2007

SB 66 [SCS SB 66]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions of law relating to investments by insurance companies

AN ACT to repeal sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 375.012, 375.020, 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.445, 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.309, 376.320, 376.620, 376.672, 376.889, 376.1012, 376.1094, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.151, 381.161, 381.211, 381.221, 381.231, 381.241, 384.054, 384.071, and 409.950, RSMo, and section 381.410 as enacted by conference committee substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth general assembly, first regular session, and sections 381.410 and 381.412 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, and to enact in lieu thereof one hundred fifty-one new sections relating to insurance company investments and examinations, with penalty provisions and an effective date for certain sections.

SECTION

354.485. Rules and regulations authorized.
354.495. Fees to be paid to director.
354.500. Conferences called by director as to suspected or potential violations.
354.510. Public documents, all filings and required reports.
354.530. Severability clause.
354.540. Health maintenance organization of bordering states may be admitted to do business — procedure.
354.545. Exempt plans and companies.
354.550. Laws not applicable to community health companies.
354.600. Definitions.
354.722. Revocation or suspension of certificate of authority, when — notice, civil suit authorized — suspension, revocation, activity permitted.
374.051. Refusal of license and nonrenewal, applicant may appeal, procedure.
374.055. Grievance procedure.
374.150. Fees paid to director of revenue, exception — department of insurance dedicated fund established, purpose — lapse into general revenue, when.
374.160. Expenses, how paid — state liability — assessment against companies, director to make, how.
374.185. Uniformity of regulation, director to cooperate.
374.208. Study on insurance markers — expiration date.
374.210. False testimony — refusal to furnish information — penalties.
374.215. Failure to timely file report or statement, penalty.
374.230. Fees — paid to director of revenue.
374.280. Civil penalty or forfeiture ordered when, how enforced.
374.285. Expungement of certain disciplinary action records.
374.512. Violation of regulations, notice to agent — powers of director to discipline — penalties.
375.012. Definitions.
375.020. Continuing education for producers, required, exceptions — procedures — director to promulgate rules and regulations — fees, how determined, deposit of.
375.143. Rulemaking authority.
375.145. Violations, penalties.
375.152. Violations, penalties.
375.236. Certificate of authority revoked, when.
375.306. Not to act for insolvent company — guarantee fund, where deposited — advertisements — penalty for violation.
375.310. Unauthorized persons or corporations enjoined from transaction of insurance business, penalty.
375.320. Not to trade — exception.
375.330. Purchase and ownership of real estate.
375.340. Sale and exchange of real estate.
375.345. Derivative transactions permitted, conditions — definitions — rules.
375.445. Company operating fraudulently or in bad faith, penalties.
375.480. Withdrawal of securities — notice — examination by director.
375.532. Investment in debt of institution permitted, when.
375.534. Foreign governments or corporations, investment in permitted — conditions, requirements.
375.720. Penalty for failure or refusal to deliver assets to director.
375.777. Director of insurance, powers and duties.
375.780. Penalties for violation of this chapter.
375.786. Certificate of authority required — exceptions — acts which are deemed transaction of insurance business — penalty for transacting business without certificate of authority.
375.881. Revocation or suspension of certificate of authority, when (foreign company).
375.940. Procedure on charges or belief of unfair practices.
375.942. Administrative order for prohibited practices — penalty.
375.946. Violation of desist order, penalty.
375.994. Investigators to have power of subpoena — moneys, costs or fines to be deposited in insurance dedicated fund — powers of director for violations, penalties.
375.1010. Director may initiate proceedings.
375.1014. Judicial review.
375.1016. Violation of cease and desist order.
375.1070. Citation of law — inapplicability.
375.1072. Definitions.
375.1075. Limitations on aggregate of medium or lower quality investments, requirements.
375.1135. Penalties, director may assess, procedures.
375.1156. Cooperation with receiver and director required — penalty.
375.1160. Administrative supervision by director, procedures, allowed when — proceedings confidential, exceptions — powers of administrative supervisor — penalties for violations — director may adopt rules — immunity from liability for director and employees.
375.1161. Violations, penalties.
375.1204. Payment of unearned premiums required — violation, penalties.

381.042. Rules, authority, procedure.
381.045. Violations, penalties.
381.048. Court actions authorized, when.
381.052. Persons authorized to conduct title insurance business.
381.055. Powers of title insurer.
381.058. License required for insurer to transact business of title insurance, exclusive to other types of insurance business — limitations — closing or settlement protection authorized.
381.062. Establishment and maintenance of minimum paid-in capital and paid-in initial surplus necessary for insurance business license.
381.065. Net retained liability limits, maximum amount — reinsurance allowed — waiver by director of risk, when.
381.068. Investment in title plant, amount restricted, considered asset.
381.072. Reserve requirements, reserve to cover all known claims — unearned premium reserve, amount, actuarial certification required, supplemental reserve, amount, deadline.
381.075. Additional insurance laws applicable to title insurers, insurer's supervision, rehabilitation and liquidation act, exceptions — liquidation or insolvency, treatment of security and escrow funds, filing of claims, cancellation of policies, payment of fully earned premiums.
381.085. Forms, director to approve before use — contents concerning coverage of policy, when included — disapproval by director, procedure.
381.112. Premium tax, premium income defined.
381.115. Licensing required for title agencies and title agents, exceptions, name and information request requirement for title agency — deadline for compliance with this section — delegation of title searches to third party, rules — violations, penalty.
381.118. Examination required — education requirements, exemptions — approved courses and programs — teaching credit — credits may be carried forward — extensions and waivers — certification to director of completion — nonresidents — rules — funds, depositing and use — fees for license renewal.
381.122. Director authorized to inspect books and records.
381.161. Contract of title insurance through specific agent, agency, or insurer prohibited.
381.410. Definitions.
381.412. Settlement agents, accepting funds, exemption — title insurer, deposit of funds — violation, fine.
384.054. Delinquent tax, penalty, interest.
384.071. Violations, penalties.
409.950. Fiduciaries and employee retirement systems, investment in certain multinational development banks authorized.
374.261. Examiner's sick leave, definitions.
374.263. Fund, insurance examiner's sick leave established, purpose.
374.265. Assessment of domestic insurers, amount, when.
374.267. Fund administration — payment to examiners, requirements — computation, limitation.
376.320. Bonds and evidences of debt to be valued, how.
376.672. Policy loan interest rates, terms and conditions established by director, how, when.
381.003. Title insurance law, application — persons, title insurers and title agencies — application of general insurance code.
381.009. Definitions.
381.011. Citation of law — purpose statement.
381.015. Title insurance commitment, required statement, when — lender's insurance policy without owner's title insurance, notice given when, contents, retention — penalty for violation.
381.018. Written contract with title insurer required for commitment or policy issuance, statement of financial condition when, contents, review and notification requirements, inventory, proof of licensure, penalty for violation.
381.021. Applicability of law.
381.022. Title insurer, agency or agent not affiliated with a title agency may operate as an escrow, security, settlement or closing agent, when, penalty for violations.
381.025. Consideration for referrals prohibited, penalty.
381.028. Title insurers, agencies and agents prohibited from engaging in transactions conditioned on use of particular title insurer, penalty for violation.
381.032. Premium rate schedules and manual, title insurers to file with director, deadline for filing rate schedules, violations, penalty — fees for legal services exempt — recording and reporting rules — confidentiality.
381.035. Duty to disclose accurate information to the director and rating organization, penalty for violation.
381.038. Retention of records required, limitation, penalty for violation.
381.041. Who may transact title insurance business, services allowed — capital requirements.
381.042. Rules, authority, procedure.
381.045. Violations, penalties.
381.048. Court actions authorized, when.
381.051. Deposit of security with director, form, withdrawal and exchange of — alternative — phase-in of requirement — use of security.
381.052. Persons authorized to conduct title insurance business.

381.055. Powers of title insurer.
381.058. License required for insurer to transact business of title insurance, exclusive to other types of insurance business — limitations — closing or settlement protection authorized.
381.061. Net retained liability, limits — director may waive.
381.062. Establishment and maintenance of minimum paid-in capital and paid-in initial surplus necessary for insurance business license.
381.065. Net retained liability limits, maximum amount — reinsurance allowed — waiver by director of risk, when.
381.068. Investment in title plant, amount restricted, considered asset.
381.072. Reserve requirements, reserve to cover all known claims — unearned premium reserve, amount, actuarial certification required, supplemental reserve, amount, deadline.
381.075. Additional insurance laws applicable to title insurers, insurer's supervision, rehabilitation and liquidation act, exceptions — liquidation or insolvency, treatment of security and escrow funds, filing of claims, cancellation of policies, payment of fully earned premiums.
381.078. Dividends, authorized when.
381.081. Unearned premium reserve, required, amount — release of portion, adjustments.
381.085. Forms, director to approve before use — contents concerning coverage of policy, when included — disapproval by director, procedure.
381.088. Insurer may satisfy duty to file premium rates by joining or subscribing to a rate service organization.
381.091. Insolvency of insurer, insurers in process of liquidation or dissolution, use of unearned premium reserve.
381.092. Title insurers and rating organizations to propose premium rates, factors for consideration — rating organization to classify policies or contracts to use as basis for rates.
381.095. Director to review rate filings, approval when, public hearing, duration of approval — procedure for disapproval of filing, hearing, order — right of third party to contest filing, procedure, hearing, order.
381.098. Rating organization for title insurer's license, who eligible, application, contents — issuance, duration, fee, disciplinary action — notification requirements — subscribers, rules, hearings by director, when, procedure.
381.101. Reserves against unpaid losses and expenses, insurers to maintain.
381.102. Insurance rating organization filings, adherence required — uniform percentage of decrease or increase allowed as deviation filing, contents.
381.105. Appeals from rating organization filings, hearing, possible dispositions — rating organization deemed to have rejected proposed change to filings, when, right of appeal.
381.108. Rules and statistical plans for rating systems, department to compile, purpose to promote uniformity among states — information to be exchanged with other states.
381.111. Reinsurance, insurer may obtain.
381.112. Premium tax, premium income defined.
381.115. Licensing required for title agencies and title agents, exceptions, name and information request requirement for title agency — deadline for compliance with this section — delegation of title searches to third party, rules — violations, penalty.
381.118. Examination required — education requirements, exemptions — approved courses and programs — teaching credit — credits may be carried forward — extensions and waivers — certification to director of completion — nonresidents — rules — funds, depositing and use — fees for license renewal.
381.121. Investments allowed, title plants — ineligible investments, disposal of.
381.122. Director authorized to inspect books and records.
381.125. Affiliated business arrangements, disclosure required, ownership financial interest reporting, restrictions.
381.131. Agents, fiduciary duty.
381.151. Division of premiums, allowed when.
381.211. Forms to be used, insurers to file copies with director.
381.221. Premium tax, premium income determined.
381.231. Rules, authority, procedure.
381.241. Inspection of records of insurer, director may examine — may hold hearing, when, extent — may order rating system invalid.
381.410. Definitions.
381.410. Definitions.
381.412. Settlement agents, accepting funds, recordation, exemption — title insurer, deposit of funds — violation, fine.
381.412. Settlement agents, accepting funds, exemption — title insurer, deposit of funds — violation, fine.
B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.150, 374.160, 374.210, 374.215, 374.230, 374.261, 374.263, 374.265, 374.267, 374.280, 374.285, 374.512, 375.012,

375.020, 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.445, 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.309, 376.320, 376.620, 376.672, 376.889, 376.1012, 376.1094, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.003, 381.009, 381.011, 381.015, 381.018, 381.021, 381.022, 381.025, 381.028, 381.032, 381.035, 381.038, 381.041, 381.042, 381.045, 381.048, 381.051, 381.052, 381.055, 381.058, 381.061, 381.062, 381.065, 381.068, 381.072, 381.075, 381.078, 381.081, 381.085, 381.088, 381.091, 381.092, 381.095, 381.098, 381.101, 381.102, 381.105, 381.108, 381.111, 381.112, 381.115, 381.118, 381.121, 381.122, 381.125, 381.131, 381.151, 381.161, 381.211, 381.221, 381.231, 381.241, 384.054, 384.071, and 409.950, RSMo, and section 381.410 as enacted by conference committee substitute for senate bill no. 664, eighty-eighth general assembly, second regular session, and section 381.412 as enacted by house committee substitute for senate bill no. 148, eighty-ninth general assembly, first regular session, and sections 381.410 and 381.412 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, are repealed and one hundred fifty-one new sections enacted in lieu thereof, to be known as sections 354.150, 354.180, 354.210, 354.350, 354.400, 354.435, 354.444, 354.455, 354.460, 354.464, 354.475, 354.485, 354.495, 354.500, 354.510, 354.530, 354.540, 354.545, 354.550, 354.600, 354.722, 374.051, 374.055, 374.150, 374.160, 374.185, 374.208, 374.210, 374.215, 374.230, 374.280, 374.285, 374.512, 375.012, 375.020, 375.143, 375.145, 375.152, 375.236, 375.306, 375.310, 375.320, 375.330, 375.340, 375.345, 375.445, 375.480, 375.532, 375.534, 375.720, 375.777, 375.780, 375.786, 375.881, 375.940, 375.942, 375.946, 375.994, 375.1010, 375.1014, 375.1016, 375.1070, 375.1072, 375.1075, 375.1135, 375.1156, 375.1160, 375.1161, 375.1204, 375.1306, 375.1309, 376.170, 376.190, 376.280, 376.291, 376.292, 376.293, 376.294, 376.295, 376.296, 376.297, 376.298, 376.300, 376.301, 376.302, 376.303, 376.304, 376.305, 376.306, 376.307, 376.309, 376.620, 376.889, 376.1012, 376.1094, 376.1500, 376.1502, 376.1504, 376.1506, 376.1508, 376.1510, 376.1512, 376.1514, 376.1516, 376.1518, 376.1520, 376.1522, 376.1524, 376.1528, 376.1530, 376.1532, 377.100, 377.200, 379.361, 379.510, 379.790, 380.391, 380.571, 381.011, 381.015, 381.018, 381.019, 381.022, 381.023, 381.024, 381.025, 381.026, 381.029, 381.038, 381.042, 381.045, 381.048, 381.052, 381.055, 381.058, 381.062, 381.065, 381.068, 381.072, 381.075, 381.085, 381.112, 381.115, 381.118, 381.122, 381.161, 381.410, 381.412, 384.054, 384.071, and 409.950, to read as follows:

354.150. FEES. — Every health services corporation subject to the provisions of sections 354.010 to 354.380 shall pay the following fees to the director **[**of insurance**]** for **the administration and** enforcement of the provisions of this chapter:

[Issuance of certificate of authority	$150.00
Filing articles of amendment	$ 20.00
Filing each annual statement	$100.00
Filing articles of acceptance and issuing a certificate of acceptance	$ 20.00
Filing any other statement or report	$ 1.00
For a certified copy of any document or other paper filed in the office of the director, per page	$ .35
For the certificate and for affixing the seal thereto	$ 10.00
For filing statement and pertinent admission papers required of a foreign health services corporation	$200.00

For copies of papers, records and documents filed in the office of the director, an amount not to exceed, at the director's discretion. . . . . $ 1.00 per page

For each service of process upon the director, on behalf of the health services corporation. . . . . $10.00**]**

(1) For filing the declaration required on organization of each domestic company, two hundred fifty dollars;

(2) For filing statement and certified copy of charter required of foreign companies, two hundred fifty dollars;

(3) For filing application to renew certificate of authority, along with all required annual reports, including the annual statement, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report of any company doing business in this state, one thousand five hundred dollars;

(4) For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of this section but required to be filed in the office of the director, fifty dollars each;

(5) For affixing the seal of office of the director, ten dollars;

(6) For accepting each service of process upon the company, ten dollars.

354.180. ADMINISTRATIVE ORDER, DIRECTOR TO ISSUE, WHEN. — 1. **[**(1) The director may issue cease and desist orders whenever it appears to him upon competent and substantial evidence that any person is acting in violation of any law, rule or regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, or whenever the director has reason to believe that any health services corporation is in such financial condition that the assumption of additional obligations would be hazardous to its members or the general public. Before any cease and desist order shall be issued, a copy of the proposed order together with an order to show cause why such cease and desist order should not be issued shall be served either personally or by certified mail on any person named therein.

(2) (a) Upon issuing any order to show cause, the director shall notify the person named therein that the person is entitled to a public hearing before the director if a request for a hearing is made in writing to the director within fifteen days from the day of the service of the order to show cause why the cease and desist order should not be issued.

(b) The cease and desist order shall be issued fifteen days after the service of the order to show cause if no request for a public hearing is made as above provided.

(c) Upon receipt of a request for a hearing, the director shall set a time and place for the hearing which shall not be less than ten days or more than fifteen days from the receipt of the request or as otherwise agreed upon by the parties. Notice of the time and place shall be given by the director not less than five days before the hearing.

(d) At the hearing the person may be represented by counsel and shall be entitled to be advised of the nature and source of any adverse evidence procured by the director and shall be given the opportunity to submit any relevant written or oral evidence in his behalf to show cause why the cease and desist order should not be issued.

(e) At the hearing the director shall have such powers as are conferred upon him in section 354.190.

(f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue the cease and desist order as proposed or as subsequently modified or notify the person or corporation subject to the provisions of sections 354.010 to 354.380 that no order shall be issued, provided that where the director finds that the corporation is in such financial condition that the assumption of additional obligations would be hazardous to its members or the general public, he may order the corporation to cease and desist from making contracts for new members or for the provision of new benefits until the corporation's financial condition is no longer hazardous.

(g) The circuit court of Cole County shall have jurisdiction to review any cease and desist order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any person against whom an order is issued fails to request judicial review, or if, after judicial review, the director's cease and desist order is upheld, the order shall become final.

2. (1) Any person willfully violating any provision of any cease and desist order of the director after it becomes final, while the same is in force, upon conviction thereof shall be guilty of a class A misdemeanor, punishable as provided by law.

(2) In addition to any other penalty provided, violation of any cease and desist order shall subject the violator to suspension or revocation of any certificate of authority or license as may be applicable under the laws of this state relating to corporations subject to the provisions of sections 354.010 to 354.380.

3. (1) When it appears to the director that there is a violation of the law, rule or regulation relating to corporations subject to the provisions of sections 354.010 to 354.380, and that the continuance of the acts or actions of any person as herein defined would produce injury to the public or to any other person in this state, or when it appears that a person is doing or threatening to do some act in violation of the laws of this state relating to corporations subject to the provisions of sections 354.010 to 354.380, the director may file a petition for injunction in the circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or restraining order as well as a permanent injunction to restrain the act or threatened act. In the event the temporary injunction or restraining order or a permanent injunction is issued by the circuit court of Cole County, Missouri, no person against whom the temporary injunction or restraining order or permanent injunction is granted shall do or continue to do any of the acts or actions complained of in the petition for injunction, unless and until the temporary injunction or restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

(2) Any writ of injunction issued under this law may be served and enforced as provided by law in injunctions issued in other cases, but the director of the insurance department shall not be required to give any bond as preliminary to or in the course of any proceedings to which he is a party as director.

4. The term "person" as used in this section shall include any individual, partnership, corporation, association or trust, or any other legal entity.**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, or a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo, except for any violation of sections 354.320 and 354.350, which is a level three violation.**

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.010 to 354.380 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo, except for any violation of sections 354.320 and 354.350, which is a level three violation.

354.210. DIRECTOR MAY SEEK RELIEF, WHEN. — **[**1. Notwithstanding any other provisions of chapter 354,**] If** the director **[**may, after a hearing, order as a forfeiture to the state of Missouri a sum not to exceed one hundred dollars for each violation by any person or corporation willfully violating any provision of sections 354.010 to 354.380 for which no specific

punishment is provided, or order of the director made in accordance with such sections. Such forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the county which has venue of an action against the person or corporation under other provisions of law.

2. Nothing contained in this section shall be construed to prohibit the director and the corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum mentioned herein without civil proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for other fines and penalties**] has reason to believe that any health services corporation is in such financial condition that the assumption of additional obligations would be hazardous to its members or the general public, the director may issue orders or seek relief to protect the public under the provisions of section 354.180**.

354.350. FRAUDULENT OR BAD FAITH CONDUCT — INVESTIGATION BY DIVISION — HEARING, PROCEDURE. — 1. **[**When upon investigation the director finds that any**] It is unlawful for any** corporation subject to the provisions of sections 354.010 to 354.380 transacting business in this state **[**has conducted**] to:**

(1) Conduct its business fraudulently**[**, is not carrying**];**

(2) Fail to carry out its contracts in good faith**[**, or is**]; or**

(3) Habitually and as a matter of business practice **[**compelling**] compel** claimants under policies or liability judgment creditors of its members to either accept less than the amount due under the terms of the policy or resort to litigation against the corporation to secure payment of the amount due**[**, and that a proceeding in respect thereto would be in the interest of the public, he shall issue and serve upon the corporation a statement of the charges in that respect and a notice of a hearing thereon**]**.

2. **[**If after the hearing the director shall determine that the corporation subject to the provisions of sections 354.010 to 354.380 has fraudulently conducted its business as defined in this section, he shall order the corporation to cease and desist from the fraudulent practice and may suspend the corporation's certificate of authority for a period not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the circuit court of Cole County or, at the option of the director of insurance, in another county which has venue of an action against the corporation under other provisions of law**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo**. The director **[**of insurance**]** may also suspend or revoke the license **or certificate of authority** of a corporation subject to the provisions of sections 354.010 to 354.380 or enrollment representative for any such willful violation.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of this section is a level two violation under section 374.049,

RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo.

354.400. DEFINITIONS. — As used in sections 354.400 to **[**354.535**]** **354.636**, the following terms shall mean:

(1) "Basic health care services", health care services which an enrolled population might reasonably require in order to be maintained in good health, including, as a minimum, emergency care, inpatient hospital and physician care, and outpatient medical services;

(2) "Community-based health maintenance organization", a health maintenance organization which:

(a) Is wholly owned and operated by hospitals, hospital systems, physicians, or other health care providers or a combination thereof who provide health care treatment services in the service area described in the application for a certificate of authority from the **[**department of insurance**]** **director**;

(b) Is operated to provide a means for such health care providers to market their services directly to consumers in the service area of the health maintenance organization;

(c) Is governed by a board of directors that exercises fiduciary responsibility over the operations of the health maintenance organization and of which a majority of the directors consist of equal numbers of the following:

a. Physicians licensed pursuant to chapter 334, RSMo;

b. Purchasers of health care services who live in the health maintenance organization's service area;

c. Enrollees of the health maintenance organization elected by the enrollees of such organization; and

d. Hospital executives, if a hospital is involved in the corporate ownership of the health maintenance organization;

(d) Provides for utilization review, as defined in section 374.500, RSMo, under the auspices of a physician medical director who practices medicine in the service area of the health maintenance organization, using review standards developed in consultation with physicians who treat the health maintenance organization's enrollees;

(e) Is actively involved in attempting to improve performance on indicators of health status in the community or communities in which the health maintenance organization is operating, including the health status of those not enrolled in the health maintenance organization;

(f) Is accountable to the public for the cost, quality and access of health care treatment services and for the effect such services have on the health of the community or communities in which the health maintenance organization is operating on a whole;

(g) Establishes an advisory group or groups comprised of enrollees and representatives of community interests in the service area to make recommendations to the health maintenance organization regarding the policies and procedures of the health maintenance organization;

(h) Enrolls fewer than fifty thousand covered lives;

(3) "Covered benefit" or "benefit", a health care service to which an enrollee is entitled under the terms of a health benefit plan;

(4) "Director", the director of the department of insurance**, financial and professional regulation**;

(5) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent lay person, possessing an average knowledge of health and medicine, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(6) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(7) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(8) "Evidence of coverage", any certificate, agreement, or contract issued to an enrollee setting out the coverage to which the enrollee is entitled;

(9) "Health care services", any services included in the furnishing to any individual of medical or dental care or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability;

(10) "Health maintenance organization", any person which undertakes to provide or arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which meets the requirements of section 1301 of the United States Public Health Service Act;

(11) "Health maintenance organization plan", any arrangement whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services and at least part of such arrangement consists of providing and assuring the availability of basic health care services to enrollees, as distinguished from mere indemnification against the cost of such services, on a prepaid basis through insurance or otherwise, and as distinguished from the mere provision of service benefits under health service corporation programs;

(12) "Individual practice association", a partnership, corporation, association, or other legal entity which delivers or arranges for the delivery of health care services and which has entered into a services arrangement with persons who are licensed to practice medicine, osteopathy, dentistry, chiropractic, pharmacy, podiatry, optometry, or any other health profession and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide:

(a) That such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(b) To the extent feasible for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff;

(13) "Medical group/staff model", a partnership, association, or other group:

(a) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, chiropractors, pharmacists, optometrists, and podiatrists) as are necessary for the provisions of health services for which the group is responsible;

(b) A majority of the members of which are licensed to practice medicine or osteopathy; and

(c) The members of which (i) as their principal professional activity over fifty percent individually and as a group responsibility engaged in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan, or are salaried employees of the health maintenance organization; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) establish an arrangement whereby an enrollee's enrollment status is not known to the member of the group who provides health services to the enrollee;

(14) "Person", any partnership, association, or corporation;

(15) "Provider", any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services;

(16) "Uncovered expenditures", the costs of health care services that are covered by a health maintenance organization, but that are not guaranteed, insured, or assumed by a person or organization other than the health maintenance organization, or those costs which a provider has not agreed to forgive enrollees if the provider is not paid by the health maintenance organization.

354.435. ANNUAL REPORTS FILED WITH DIRECTOR, WHEN — CONTENT — FORMS. — 1. Every health maintenance organization shall annually, on or before March first, file a report, verified by at least two principal officers, with the director, covering its preceding calendar year.

2. Such report shall be on forms prescribed by the director and shall include:

(1) A financial statement of the organization, including its balance sheet for the preceding calendar year;

(2) Any material changes in the information submitted pursuant to subsection 3 of section 354.405;

(3) The number of persons enrolled during the year, the number of enrollees, as of the end of the year, and the number of enrollments terminated during the year;

(4) A statement setting forth the amount of uncovered and covered expenses that are payable and are more than ninety days past due for the period of August first through December thirty-first of the preceding year;

(5) Such other information relating to the performance of the organization as is necessary to enable the director to carry out his duties under sections 354.400 to **[**354.550**]** **354.636**.

354.444. ADMINISTRATIVE ORDERS FOR VIOLATIONS — VOLUNTARY FORFEITURES, CIVIL ACTIONS. — 1. **[**Notwithstanding any other provisions of chapter 354,**]** **If** the director **[**may, after a hearing, order a forfeiture to the state of Missouri a sum not to exceed one hundred dollars for each violation by any person knowingly violating any provision**]** **determines that a person has engaged, is engaged in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation** of sections 354.400 to 354.636 **[**for which no specific punishment is provided, or order a specific punishment in accordance with such sections. Such forfeiture may be recovered by a civil action brought by and in the name of the department of insurance. The civil action may be brought in the county which has venue for an action against the person or corporation**]**, **or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo**.

2. **[**Nothing contained in this section shall be construed to prohibit the director and the corporation or its enrollment representative from agreeing to a voluntary forfeiture of the sum mentioned herein without civil proceedings being instituted. Any payment under this section shall be paid into the school fund as provided by article IX, section 7 of the Missouri Constitution for fines and penalties**]** **If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.400 to 354.636, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.400 to 354.636 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level one violation under section 374.049, RSMo**.

354.455. DEPOSIT REQUIRED, HOW MADE. — Unless otherwise provided in sections 354.400 to **[**354.550**]** **354.636**, each health maintenance organization shall deposit with the director, or with any organization or trustee acceptable to him through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures acceptable to him, in the amount set forth in section 354.410.

354.460. ADVERTISING NOT TO BE UNTRUE OR MISLEADING — DECEPTIVE SOLICITATION — PROHIBITED — HOW DETERMINED. — No health maintenance organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of sections 354.400 to **[**354.550**]** **354.636**:

(1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment with, a health maintenance organization;

(2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person, not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health maintenance organization plan, if such benefit, advantage, or absence of limitation, exclusion, or disadvantage does not, in fact, exist;

(3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage, taken as a whole, is misleading.

354.464. NAMES NOT AUTHORIZED FOR USE, EXCEPTIONS. — No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this state when such words are deceptive or misleading. No person, if not in possession of a valid certificate of authority issued pursuant to sections 354.400 to **[**354.550**]** **354.636**, may use the phrase "health maintenance organization" or "HMO" in the course of its operation.

354.475. INSURANCE COMPANIES OR HEALTH SERVICE COMPANY MAY ORGANIZE AND OPERATE A HEALTH MAINTENANCE ORGANIZATION. — 1. An insurance company licensed in this state, or a health services corporation authorized to do business in this state, may directly or through a subsidiary or affiliate, organize and operate a health maintenance organization under the provisions of sections 354.400 to **[**354.550**]** **354.636** so long as they comply with the provisions of section 354.410 as applicable thereto. Notwithstanding any other law to the contrary, any two or more such insurance companies, health services corporations, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization.

2. Notwithstanding any other provision of law pertaining to insurance and health services corporations to the contrary, an insurer or a health services corporation may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. The enrollees of a health maintenance organization shall be deemed to constitute a permissible group under such laws. Among other things, under such contracts, the insurer or health services corporation may make benefit payments to health maintenance organizations for health care services rendered by providers.

354.485. RULES AND REGULATIONS AUTHORIZED. — The director may promulgate such reasonable rules and regulations in accordance with chapter 536, RSMo, as are necessary or proper to carry out the provisions of sections 354.400 to **[**354.550**]** **354.636**.

354.495. FEES TO BE PAID TO DIRECTOR. — Every health maintenance organization subject to sections 354.400 to **[**354.550**]** **354.636** shall pay to the director the following fees:

[(1) Issuance or renewal of certificate of authority . . . . . $ 150.00
(2) Filing of articles of amendment 1.00
(3) Filing each annual statement. 100.00
(4) Filing articles of acceptance and issuing a certificate of acceptance 20.00
(5) Filing any other statement or report. 20.00
(6) For the certification of any document, and affixing the seal thereto. 10.00
(7) For filing statement and pertinent admission papers required of a foreign health maintenance organization. 200.00
(8) For each appointment of an agent by the health maintenance organization. 5.00
(9) For copies of papers, records and documents filed in the office of the director, an amount not to exceed, at the director's discretion. . . . . 1.00 per page
(10) For each service of process upon the director, on behalf of the health maintenance organization. . . . . 10.00**]**

(1) For filing the declaration required on organization of each domestic company, two hundred fifty dollars;

(2) For filing statement and certified copy of charter required of foreign companies, two hundred fifty dollars;

(3) For filing application to renew certificate of authority, along with all required annual reports, including the annual statement, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report of any company doing business in this state, one thousand five hundred dollars;

(4) For filing any paper, document, or report not filed under subdivision (1), (2), or (3) of this section but required to be filed in the office of the director, fifty dollars each;

(5) For affixing the seal of office of the director, ten dollars;

(6) For accepting each service of process upon the company, ten dollars.

354.500. CONFERENCES CALLED BY DIRECTOR AS TO SUSPECTED OR POTENTIAL VIOLATIONS. — 1. If the director shall for any reason have cause to believe that any violation of sections 354.400 to **[**354.550**]** **354.636** has occurred or is about to occur, the director may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators, or potential violators, or their authorized representatives, for the purpose of attempting to ascertain the facts relating to such suspected or potential violation, and, in the event it appears that any violation has occurred or is about to occur, to arrive at an adequate and effective means of correcting or preventing such violation. Proceedings under this subsection shall not be

governed by any formal procedural requirements, and may be conducted in such manner as the director may deem appropriate under the circumstances.

2. **[**The director may issue an order directing a health maintenance organization, or a representative of a health maintenance organization, to cease and desist from engaging in any act or practice in violation of the provisions of sections 354.400 to 354.550. Within twenty days after service of the order to cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of sections 354.400 to 354.550 have occurred. Such hearing shall be conducted, and judicial review shall be available, as provided in chapter 536, RSMo.

3. In the case of noncompliance with a cease and desist order issued pursuant to subsection 2 of this section, the director may institute a proceeding to obtain injunctive or other appropriate relief, in the circuit court.**]**

354.510. PUBLIC DOCUMENTS, ALL FILINGS AND REQUIRED REPORTS. — Unless otherwise provided, all applications, filings, and reports required under sections 354.400 to **[**354.550**] 354.636** shall be treated as public documents.

354.530. SEVERABILITY CLAUSE. — If any section, term, or provision of sections 354.400 to **[**354.550**] 354.636** shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, term, or provision of sections 354.400 to **[**354.550**] 354.636**, but the remaining sections, terms, and provisions shall be and remain in full force and effect.

354.540. HEALTH MAINTENANCE ORGANIZATION OF BORDERING STATES MAY BE ADMITTED TO DO BUSINESS — PROCEDURE. — A health maintenance organization approved and regulated under the laws of another bordering state may be admitted to do business in this state by satisfying the director that it is fully and legally organized under the laws of its state, and that it complies with all requirements for health maintenance organizations organized within Missouri. The director may waive or modify the provisions of sections 354.400 to **[**354.550**] 354.636** if he determines that the same are not appropriate or necessary to a particular health maintenance organization of another state.

354.545. EXEMPT PLANS AND COMPANIES. — The provisions of sections 354.400 to **[**354.550**] 354.636** shall not apply to any labor organization's health plan providing services established and maintained solely for its members and their dependents, and facilities of not-for-profit corporations in existence on October 1, 1980, subject either to the provisions and regulations of section 302 of the Labor-Management Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538.

354.550. LAWS NOT APPLICABLE TO COMMUNITY HEALTH COMPANIES. — The provisions of sections 354.400 to **[**354.550**] 354.636** shall not apply to community health corporations as defined by Public Law 94-63 so long as such corporations limit their activities to those described in Public Law 94-63.

354.600. DEFINITIONS. — For purposes of sections 354.600 to 354.636 the following terms shall mean:

(1) **[**"Covered benefit" or "benefit", a health care service to which an enrollee is entitled under the terms of a health benefit plan;

(2) "Director", the director of the department of insurance;

(3) "Emergency medical condition", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent

lay person, possessing an average knowledge of medicine and health, to believe that immediate medical care is required, which may include, but shall not be limited to:

(a) Placing the person's health in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain; or

(e) With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

b. That transfer to another hospital may pose a threat to the health or safety of the woman or unborn child;

(4) "Emergency service", a health care item or service furnished or required to screen and stabilize an emergency medical condition, which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider;

(5) "Enrollee", a policyholder, subscriber, covered person or other individual participating in a health benefit plan;

(6)**]** "Facility", an institution providing health care services or a health care setting, including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing facilities, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings;

[(7)**] (2)** "Health benefit plan", a policy, contract, certificate or agreement entered into, offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services;

[(8)**] (3)** "Health care professional", a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services;

[(9)**] (4)** "Health care provider" or "provider", a health care professional or a facility;

[(10) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(11)**] (5)** "Health carrier", a health maintenance organization established pursuant to sections 354.400 to 354.636;

[(12)**] (6)** "Health indemnity plan", a health benefit plan that is not a managed care plan;

[(13)**] (7)** "Intermediary", a person authorized to negotiate and execute provider contracts with health carriers on behalf of health care providers or on behalf of a network;

[(14)**] (8)** "Managed care plan", a health benefit plan that either requires an enrollee to use, or creates incentives, including financial incentives, for an enrollee to use health care providers managed, owned, under contract with or employed by the health carrier;

[(15)**] (9)** "Network", the group of participating providers providing services to a managed care plan;

[(16)**] (10)** "Participating provider", a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the health carrier;

[(17) "Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing; and

(18)**] (11)** "Primary care professional" or "primary care provider", a participating health care professional designated by the health carrier to supervise, coordinate or provide initial care or continuing care to an enrollee, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the enrollee.

354.722. REVOCATION OR SUSPENSION OF CERTIFICATE OF AUTHORITY, WHEN — NOTICE, CIVIL SUIT AUTHORIZED — SUSPENSION, REVOCATION, ACTIVITY PERMITTED. — 1. The director may suspend or revoke any certificate of authority issued to a prepaid dental plan corporation pursuant to sections 354.700 to 354.723 if he finds that any of the following conditions exist:

(1) The prepaid dental plan corporation is operating substantially in contravention of its basic organizational document or is not fulfilling its contracts;

(2) **[**The prepaid dental plan corporation issues a contract, contract certificate or amendment which has not been filed with the director and approved or deemed approved by the director;

(3)**]** The prepaid dental plan corporation is no longer financially responsible and may reasonably be expected to be unable to meet its contractual obligations to enrollees, or prospective enrollees;

[(4)**] (3)** The prepaid dental plan corporation, or any person on its behalf, has advertised or merchandised its prepaid dental benefits in an untrue, misrepresentative, misleading, deceptive or unfair manner;

[(5)**] (4)** The continued operation of the prepaid dental plan corporation would be hazardous to its enrollees; or

[(6)**] (5)** The prepaid dental plan corporation has failed to substantially comply with the provisions of sections 354.700 to 354.723 or any rules or regulations promulgated thereunder.

2. **[**When the director believes that grounds for the suspension or revocation of the corporation's certificate of authority exists, he shall notify the corporation in writing, stating the grounds and fixing a date and time for a hearing. At least twenty days' notice of such hearing shall be given. The hearing and any appeals therefrom shall be in accordance with chapter 536, RSMo.

3. The director may, in lieu of the suspension or revocation of the corporation's certification of authority, file suit in circuit court to seek a civil penalty in an amount not less than one hundred dollars nor more than one thousand dollars.

4.**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 354.700 to 354.723 or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 354.700 to 354.723 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the certificate of authority of a corporation for any such willful violation.**

3. When the certificate of authority of a prepaid dental plan corporation is suspended, the prepaid dental plan corporation shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependent of existing enrollees and shall not engage in any advertising or solicitation whatsoever.

[5.**] 4.** When the certificate of authority of a prepaid dental plan corporation is revoked, such corporation shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such corporation. It shall engage in no further advertising or solicitation whatsoever.

374.051. REFUSAL OF LICENSE AND NONRENEWAL, APPLICANT MAY APPEAL, PROCEDURE. — 1. Any applicant refused a license or the renewal of a license by order of the director under sections 374.755, 374.787, and 375.141, RSMo, may file a petition with the administrative hearing commission alleging that the director has refused the license. The administrative hearing commission shall conduct hearings and make findings of fact

and conclusions of law in determining whether the applicant may be disqualified by statute. Notwithstanding section 621.120, RSMo, the director shall retain discretion in refusing a license or renewal and such discretion shall not transfer to the administrative hearing commission.

2. If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, RSMo, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.

3. Hearing procedures before the director or the administrative hearing commission and judicial review of the decisions and orders of the director and of the administrative hearing commission, and all other procedural matters under this chapter, shall be governed by the provisions of chapter 536, RSMo. Hearings before the administrative hearing commission shall also be governed by the provisions of chapter 621, RSMo.

374.055. GRIEVANCE PROCEDURE. — 1. Except as otherwise provided, any interested person aggrieved by any order of the director under the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted by the director, or by any refusal or failure of the director to make an order pursuant to any of said provisions, shall be entitled to a hearing before the director in accordance with the provisions of chapter 536, RSMo. A final order issued by the director is subject to judicial review in accordance with the provisions of chapter 536, RSMo. However, any findings of fact or conclusions of law in any order regarding the actual costs of the investigation or proceedings under section 374.046, or the classification of any violation under section 374.049, shall be subject to de novo review.

2. A rule adopted by the director is subject to judicial review in accordance with the provisions of chapter 536, RSMo.

3. Notwithstanding any other provision of law to the contrary, no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. As used in this section, the term "accident response service fee" means a fee imposed for the response or investigation by a local law enforcement agency of a motor vehicle accident.

374.150. FEES PAID TO DIRECTOR OF REVENUE, EXCEPTION — DEPARTMENT OF INSURANCE DEDICATED FUND ESTABLISHED, PURPOSE — LAPSE INTO GENERAL REVENUE, WHEN. — 1. All fees due the state under the provisions of the insurance laws of this state shall be paid to the director of revenue and deposited in the state treasury to the credit of the insurance **[**department**]** **dedicated** fund unless otherwise provided for in subsection 2 of this section.

2. There is hereby established in the state treasury a special fund to be known as the "**[**Department of**]** Insurance Dedicated Fund". The fund shall be subject to appropriation of the general assembly and shall be devoted solely to the payment of expenditures incurred by the department **[**of insurance**]** attributable to duties performed by the department **for the regulation of the business of insurance, regulation of health maintenance organizations and the operation of the division of consumer affairs** as required by law which are not paid for by another source of funds. Other provisions of law to the contrary notwithstanding, beginning on January 1, 1991, all fees charged under any provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due the state shall be paid into this fund. The state treasurer shall invest moneys in this fund in the same manner as other state funds and any interest or earnings on such moneys shall be credited to the **[**department of**]** insurance dedicated

fund. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of the general revenue fund unless and then only to the extent to which the unencumbered balance at the close of the biennium year exceeds two times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

[3. Notwithstanding the provisions of this section to the contrary, fifty-five percent of the balance in the department of insurance dedicated fund as of the effective date of this act or six million fifteen thousand eight hundred and fifty-five dollars, whichever is greater, shall be subject to an immediate one-time transfer to the state general revenue fund.**]**

374.160. EXPENSES, HOW PAID — STATE LIABILITY — ASSESSMENT AGAINST COMPANIES, DIRECTOR TO MAKE, HOW. — 1. The expenses of examinations, valuations or proceedings against any company, and for dissolving or settling the affairs of companies are to be paid by the company, or as provided by law. The state shall not be responsible in any manner for the payment of any such expenses, or any charges connected therewith.

2. **At the request of the director, every domestic insurance company or health maintenance organization subject to an order of conservation, rehabilitation, or liquidation shall reimburse the insurance dedicated fund for administrative services rendered by state employees to the company. Reimbursement shall include that portion of the employee's salary, state benefits, and expenses that specifically relates to the services rendered on behalf of the company.**

3. All other expenses of the department of insurance**, financial institutions and professional registration** now or hereafter incurred and unpaid, or that may be hereafter incurred, including the salaries of the director and deputy director, shall be paid out of the state treasury in the manner provided by law.

[3.**]** **4.** The director shall assess the expenses of any examination against the company examined and shall order that the examination expenses be paid into the insurance examiners fund created by section 374.162. **[**The director shall also assess an additional amount equal to fifteen percent of the total expenses of examination, to be paid for the supervision and support of the examiners. The insurance examiner's sick leave fund created by sections 374.261 to 374.267 shall be combined with the insurance examiners fund.**]** **This assessment shall include the costs of compensation, including benefits, for the examiners, analysts, actuaries, and attorneys directly contributing to the examination of the company, any reasonable travel, lodging, and meal expenses related to an on-site examination, and other expenses related to the examination of the company, including an allocation for examiners' office space, supplies, and equipment, but not expenses associated with attending a course, seminar, or meeting, unless solely related to the examination of the company assessed.** The director shall pay from the insurance examiners fund the compensation of insurance examiners **[**pursuant to section 374.115, any expenses to be paid from such sick leave fund under sections 374.261 to 374.267**]**, **analysts, actuaries, and attorneys, including standard benefits afforded to state employees, for performance of any such examination** and **other** expenses **[**incurred for supervision and support of the examiners**]** **covered in the assessment**. The general assembly shall annually provide appropriations sufficient to distribute all receipts into the insurance examiners fund. The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund shall not apply to the insurance examiners fund.

[4.**]** **5.** If any company shall refuse to pay the expenses of any examination, valuation or proceeding assessed by the director pursuant to this section, the company shall be liable for double the amount of such expenses and all costs of collection, including attorney's fees. The company shall not be entitled to a credit, pursuant to section 148.400, RSMo, for any fees, expenses or costs ordered pursuant to this subsection other than in the amount of the expenses originally assessed by the director. All amounts collected pursuant to this subsection shall be credited to the insurance examiners fund.

374.185. UNIFORMITY OF REGULATION, DIRECTOR TO COOPERATE. — 1. The director may cooperate, coordinate, and consult with other members of the National Association of Insurance Commissioners, the commissioner of securities, state securities regulators, the division of finance, the division of credit unions, the attorney general, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments, and self-regulatory organizations. The director may share records with any aforesaid entity, except that any record that is confidential, privileged, or otherwise protected from disclosure by law shall not be disclosed unless such entity agrees in writing prior to receiving such record to provide it the same protection. No waiver of any applicable privilege or claim of confidentiality regarding any record shall occur as the result of any disclosure.

2. In cooperating, coordinating, consulting, and sharing records and information under this section and in acting by rule, order, or waiver under the laws relating to insurance, the director shall, at the discretion of the director, take into consideration in carrying out the public interest the following general policies:

(1) Maximizing effectiveness of regulation for the protection of insurance consumers;

(2) Maximizing uniformity in regulatory standards; and

(3) Minimizing burdens on the business of insurance, without adversely affecting essentials of consumer protection.

3. The cooperation, coordination, consultation, and sharing of records and information authorized by this section includes:

(1) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;

(2) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

(3) Developing and maintaining uniform forms;

(4) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;

(5) Holding joint administrative hearings;

(6) Instituting and prosecuting joint civil or administrative enforcement proceedings;

(7) Sharing and exchanging personnel;

(8) Coordinating licensing under section 375.014, RSMo;

(9) Formulating rules, statements of policy, guidelines, forms, no action determinations, and bulletins; and

(10) Formulating common systems and procedures.

374.208. STUDY ON INSURANCE MARKERS — EXPIRATION DATE. — The director shall study and recommend to the General Assembly changes to avoid unnecessary duplication of market conduct activities and to implement uniform processes and procedures for market analysis and market conduct examinations which will more effectively utilize resources to protect insurance consumers. The study shall be completed and recommendations provided by January 1, 2008.

374.210. FALSE TESTIMONY — REFUSAL TO FURNISH INFORMATION — PENALTIES. — 1. **It is unlawful for,** any person **[**testifying falsely in reference to any matter material to the investigation, examination or inquiry shall be deemed guilty of perjury.**] in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, to:**

[2. Any person who shall refuse to give such director full and truthful information, and answer in writing to any inquiry or question made in writing by the director, in regard to the business of insurance carried on by such person, or to appear and testify under oath before the director in regard to the same, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding three months.

3. Any director, officer, manager, agent or employee of any insurance company, or any other person, who shall]

(1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo; or

(2) Make any false certificate or entry or memorandum upon any of the books or papers of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed in the [insurance] department, or used in the course of any examination, inquiry, or investigation[, with intent to deceive the director or any person employed or appointed by him to make any examination, inquiry or investigation, shall, upon conviction, be punished by a fine not exceeding one thousand dollars, and by imprisonment not less than two months in the county or city jail, nor more than five years in the penitentiary] **under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo.**

2. If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the director, the director may apply to the circuit court of any county of the state or any city not within a county, or a court of another state to enforce compliance. The court may:

(1) Hold the person in contempt;

(2) Order the person to appear before the director;

(3) Order the person to testify about the matter under investigation or in question;

(4) Order the production of records;

(5) Grant injunctive relief;

(6) Impose a civil penalty of up to fifty thousand dollars for each violation; and

(7) Grant any other necessary or appropriate relief.

The director may also suspend, revoke or refuse any license or certificate of authority issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

3. This section does not preclude a person from applying to the circuit court of any county of the state or any city not within a county for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

4. A person is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the director under an action or proceeding instituted by the director on the grounds that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the director may apply to the circuit court of any county of the state or any city not within a county to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other evidence compelled under such an order may not be used as evidence against the person in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

5. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of

business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of subsection 1 of this section is a level four violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

6. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of subsection 1 of this section is a level four violation under section 374.049.

7. Any person who knowingly engages in any act, practice, omission, or course of business in violation of subsection 1 of this section is guilty of a class D felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the department to revoke such license or certificate of authority.

8. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

9. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

374.215. FAILURE TO TIMELY FILE REPORT OR STATEMENT, PENALTY. — 1. If any insurance company **or other entity regulated by the director** doing business in this state fails to timely make and file any statutorily required report or statement, the department **[**of insurance**]** shall notify such company **or entity** of such failure by first class mail. Any company **or entity** notified by the department **[**of insurance**]** pursuant to this section shall **[**have**] file such report or statement within** fifteen days **[**to make and file such report. If such company fails to make and file such report within the fifteen days, it shall forfeit one hundred dollars for each day after the fifteen-day grace period expires.

2. Any insurance company doing business in this state which knowingly or intentionally files or which has filed on its behalf any materially false report or statement forfeits not more than one thousand dollars.

3. Any forfeiture required or permitted by this section shall be considered a civil penalty which the director of the department of insurance may order pursuant to the provisions of sections 374.040 and 374.280**] of receiving notification. After the expiration of such fifteen days, each day in which the company or entity fails to file such report or statement is a separate violation of this section**.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049. The director may also suspend or revoke the certificate of authority of such person for any willful violation.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a

violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level two violation under section 374.049.

374.230. FEES — PAID TO DIRECTOR OF REVENUE. — Every insurance company doing business in this state shall pay to the director of revenue the following fees:

(1) **[**For making valuations of policies or other obligations of assurance, one thousand dollars for all ordinary forms of policies, and the cost of computing special evaluation tables for policy forms requiring such shall be added;

(2)**]** For filing the declaration required on organization of each **domestic** company, **two hundred** fifty dollars;

[(3)**]** **(2)** For filing statement and certified copy of charter required of foreign companies, **two hundred** fifty dollars;

[(4)**]** **(3)** For filing **application to renew certificate of authority, along with all required annual reports, including the** annual statement**, actuarial statement, risk based capital report, report of valuation of policies or other obligations of assurance, and audited financial report** annual statement of any company doing business in this state, **[**two hundred fifty**]** **one thousand five hundred** dollars;

[(5)**]** **(4)** For filing supplementary annual statement of any company doing business in this state, **[**ten**]** **fifty** dollars;

[(6)**]** **(5)** For filing any **[**other**]** paper**, document, or report not filed under subdivision (1), (2), or (3), but** required to be filed in the office of the director **[**of the department of insurance**]**, fifty dollars each;

[(7)**]** **(6)** For **[**each agent's**]** **a** copy of **[**his**]** **a** company's certificate of authority or **producer or agent** license, **[**two**]** **ten** dollars;

[(8) For copies of papers, records, and documents filed in the office of the director of the department of insurance, twenty cents per folio;

(9)**]** **(7)** For affixing the seal of office of the director **[**of the department of insurance**]**, ten dollars;

[(10)**]** **(8)** For accepting each service of process upon the company, ten dollars.

374.280. CIVIL PENALTY OR FORFEITURE ORDERED WHEN, HOW ENFORCED. — 1. **[**Notwithstanding any other provisions of chapters 374, 375, 376, 377, 378 and 379, RSMo,**]** The director may, after a hearing **under section 374.046**, order a **civil penalty or** forfeiture **payable** to the state of Missouri **[**a sum not to exceed one hundred dollars for each violation by any person, partnership or corporation knowingly violating any provision of chapters 374, 375, 376, 377, 378 and 379, RSMo, or order of the director of insurance made in accordance with those chapters**]** **authorized by section 374.049**, which **penalty or** forfeiture**, if unpaid within ten days,** may be recovered by a civil action brought by and in the name of the director **[**of insurance**]** **under section 374.048**. The civil action may be brought in the county which has venue of an action against the person, partnership or corporation under other provisions of law. The director **[**of insurance**]** may also suspend or revoke the license **[**of an insurer, agent, broker or agency**]** **or certificate of authority of such person** for any willful violation.

2. Nothing contained in this section shall be construed to prohibit the director and **[**the insurer, agent, broker or agency**]** **any person subject to an investigation, examination, or other proceeding** from agreeing to a voluntary forfeiture of the sum mentioned herein without civil proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for other fines and penalties.

374.285. EXPUNGEMENT OF CERTAIN DISCIPLINARY ACTION RECORDS. — Except as provided in section 375.141, RSMo, all records of disciplinary actions against an insurance **[**agent, broker, agency or**]** producer which resulted in a **[**voluntary**]** forfeiture **or other monetary relief** of two hundred dollars or less **and places no other legal duty upon the producer** shall be expunged after a period of five years from the date of the execution of the **[**voluntary forfeiture**] order or settlement agreement** by the director **[**of the department of insurance**]**.

374.512. VIOLATION OF REGULATIONS, NOTICE TO AGENT — POWERS OF DIRECTOR TO DISCIPLINE — PENALTIES. — 1. Whenever the director has reason to believe that a utilization review agent subject to sections 374.500 to 374.515 has been or is engaged in conduct which violates the provisions of sections 374.500 to 374.515, the director shall notify the utilization review agent of the alleged violation. The utilization review agent shall have thirty days from the date the notice is received to respond to the alleged violation.

2. If the director **[**believes**] determines** that the utilization review agent has **[**violated the provisions of sections 374.500 to 374.515, or is not satisfied that the alleged violation has been corrected, he shall conduct a hearing on the alleged violation, in accordance with chapter 536, RSMo**] engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of any of these sections is a level two violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation**.

3. **[**If, after such hearing, the director determines that the utilization review agent has engaged in violations of sections 374.500 to 374.515, he shall reduce his findings to writing and shall issue and cause to be served upon the utilization review agent a copy of such findings and an order requiring the utilization review agent to cease and desist from engaging in such violations. The director may also, at his discretion, order:

(1) Payment of a monetary penalty of not more than ten thousand dollars for a violation which occurred if the utilization review agent consciously disregarded sections 374.500 to 374.515 or which occurred with such frequency as to indicate a general business practice; or

(2) Suspension or revocation of the authority to do business in this state as a utilization review agent if the utilization review agent knew that it was in violation of sections 374.500 to 374.515**] If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 374.500 to 374.515 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of any of these sections is a level two violation under section 374.049**.

375.012. DEFINITIONS. — 1. **Sections 375.012 to 375.146 may be cited as the "Insurance Producers Act".**

2. As used in sections 375.012 to 375.158, the following words mean:

(1) "Business entity", a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;

(2) "Director", the director of the department of insurance**, financial and professional regulation**;

(3) "Home state", the District of Columbia and any state or territory of the United States in which the insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer;

(4) "Insurance", any line of authority, including life, accident and health or sickness, property, casualty, variable life and variable annuity products, personal, credit and any other line of authority permitted by state law or regulation;

(5) "Insurance company" or "insurer", any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health service plans, unless their exclusion from this definition can be clearly ascertained from the context of the particular statutory section under consideration. Insurer shall also include all companies organized, incorporated or doing business pursuant to the provisions of chapters 375, 376, 377, 378, 379, 381 and 384, RSMo. Trusteed pension plans and profit-sharing plans qualified pursuant to the United States Internal Revenue Code as now or hereafter amended shall not be considered to be insurance companies or insurers within the definition of this section;

(6) "Insurance producer" or "producer", a person required to be licensed pursuant to the laws of this state to sell, solicit or negotiate insurance;

(7) "License", a document issued by the director authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself shall not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance company;

(8) "Limited line credit insurance", credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director determines should be designated a form of limited line credit insurance;

(9) "Limited line credit insurance producer", a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage through a master, corporate, group or individual policy;

(10) "Limited lines insurance", insurance involved in credit transactions, insurance contracts issued primarily for covering the risk of travel or any other line of insurance that the director deems necessary to recognize for the purposes of complying with subsection 5 of section 375.017;

(11) "Limited lines producer", a person authorized by the director to sell, solicit or negotiate limited lines insurance;

(12) "Negotiate", the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

(13) "Person", an individual or any business entity;

(14) "Personal lines insurance", property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(15) "Sell", to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

(16) "Solicit", attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

(17) "Terminate", the cancellation of the relationship between an insurance producer and the insurer or the termination of the authority of the producer to transact the business of insurance;

(18) "Uniform business entity application", the current version of the National Association of Insurance Commissioners uniform business entity application for resident and nonresident business entities seeking an insurance producer license;

(19) "Uniform application", the current version of the National Association of Insurance Commissioners uniform application for resident and nonresident producer licensing.

[2.**]** **3.** All statutory references to "insurance agent" or "insurance broker" shall mean "insurance producer", as that term is defined pursuant to subsection 1 of this section.

375.020. CONTINUING EDUCATION FOR PRODUCERS, REQUIRED, EXCEPTIONS — PROCEDURES — DIRECTOR TO PROMULGATE RULES AND REGULATIONS — FEES, HOW DETERMINED, DEPOSIT OF. — 1. Beginning January 1, **[**1990**]** **2008**, each insurance producer, unless exempt pursuant to section 375.016, licensed to sell insurance in this state shall successfully complete courses of study as required by this section. Any person licensed to act as an insurance producer shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of **[**ten**]** **sixteen** hours of instruction **[**for a life or accident and health license or both a life and an accident and health license and a minimum ten hours of instruction for a property or casualty license or both a property and a casualty license. Sixteen hours of training will suffice for those with a life, health, accident, property and casualty license**]**. Of the sixteen hours' training required **[**above**]** **in this subsection**, the hours need not be divided equally **among the lines of authority in which the producer has qualified**. The courses or programs **attended by the producer during each two-year period** shall include instruction on Missouri law**, products offered in any line of authority in which the producer is qualified, producers' duties and obligations to the department, and business ethics, including sales suitability**. Course credit shall be given to members of the general assembly as determined by the department.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) American College Courses (CLU, ChFC);

(2) Life Underwriters Training Council (LUTC);

(3) Certified Insurance Counselor (CIC);

(4) Chartered Property and Casualty Underwriter (CPCU);

(5) Insurance Institute of America (IIA);

(6) **Any other professional financial designation approved by the director by rule;**

(7) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

[(7)**]** **(8)** A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized producer association or insurance trade association. A local producer group may also be approved if the instructor receives no compensation for services.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess **[**classroom**]** hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) The licensee is at least seventy years of age.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs or seminars of instruction taken and successfully completed by such person. Every provider of continuing education courses authorized in this state shall, within thirty working days of a licensed producer completing its approved course, provide certification to the director of the completion in a format prescribed by the director.

7. The provisions of this section shall not apply to those natural persons holding licenses for any kind or kinds of insurance for which an examination is not required by the law of this state, nor shall they apply to any limited lines insurance producer license or restricted license as the director may exempt.

8. The provisions of this section shall not apply to a life insurance producer who is limited by the terms of a written agreement with the insurer to transact only specific life insurance policies having an initial face amount of five thousand dollars or less, or annuities having an initial face amount of ten thousand dollars or less, that are designated by the purchaser for the payment of funeral or burial expenses. The director may require the insurer entering into the written agreements with the insurance producers pursuant to this subsection to certify as to the representations of the insurance producers.

9. Rules and regulations necessary to implement and administer this section shall be promulgated by the director, including, but not limited to, rules and regulations regarding the following:

(1) Course content and hour credits: The insurance advisory board established by section 375.019 shall be utilized by the director to assist him in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Filing fees for course approval: Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course. Fees shall be waived for state and local insurance producer groups. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval. Courses approved by the director prior to August 28, 1993, for which continuous certification is sought should be resubmitted for approval sixty days before the anniversary date of the previous approval.

10. All funds received pursuant to the provisions of this section shall be transmitted by the director to the department of revenue for deposit in the state treasury to the credit of the **[**department of**]** insurance dedicated fund. All expenditures necessitated by this section shall be paid from funds appropriated from the **[**department of**]** insurance dedicated fund by the legislature.

375.143. RULEMAKING AUTHORITY. — In order to effectuate and aid in the interpretation of section 375.141, the director, under section 374.045, RSMo, may adopt rules and regulations codifying professional standards of producer competency and trustworthiness in the handling of applications, premium funds, conflicts of interest, record-keeping, supervision of others, and customer suitability.

375.145. VIOLATIONS, PENALTIES. — 1. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.012 to 375.144 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.012 to 375.144, or a rule adopted or order issued pursuant thereto, the

director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of sections 375.012 to 375.142 is a level two violation under section 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of sections 375.012 to 375.142 is a level two violation under section 374.049, RSMo. A violation of section 375.144 is a level four violation under 374.049, RSMo.

375.152. VIOLATIONS, PENALTIES. — 1. **[**If the director finds after a hearing conducted in accordance with chapter 536, RSMo, that any person has violated the provisions of sections 375.147 to 375.153, the director may order:

(1) For each separate violation, imposition of an administrative penalty in an amount of five hundred dollars. All moneys collected as a result of imposition of such penalties shall be transferred to the state treasurer for deposit to general revenue of the state;

(2) Revocation or suspension of the producer's license, provided that such action may be taken only after compliance with chapter 621, RSMo;

(3)**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.147 to 375.153 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation under any of these sections is a level two violation under section 374.049, RSMo. In addition to the relief available in this section, the director may also order the managing general agent to reimburse the insurer, the rehabilitator or liquidator of the insurer, for any losses incurred by the insurer caused by a violation of sections 375.147 to 375.153 committed by the managing general agent.

[2. The decision, determination or order of the director made pursuant to subsection 1 of this section shall be subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.**]**

3. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance law.

4. Nothing contained in sections 375.147 to 375.153 is intended to or shall in any manner limit or restrict the rights of policyholders, claimants and creditors.

375.236. CERTIFICATE OF AUTHORITY REVOKED, WHEN. — Other provisions of law notwithstanding, the director may suspend or revoke, after a hearing, the certificate of authority or license of any insurance company including a reciprocal or interinsurance exchange for the same reasons and upon the same grounds as set forth in section **[**375.560**] 374.047, RSMo**.

375.306. NOT TO ACT FOR INSOLVENT COMPANY — GUARANTEE FUND, WHERE DEPOSITED — ADVERTISEMENTS — PENALTY FOR VIOLATION. — 1. It **[**shall not be lawful**] is unlawful** for any person to act within this state as agent**, producer,** or otherwise, in receiving or procuring applications for insurance, or in any manner to aid in transacting the business referred to in **[**sections 375.010 to 375.920**] this chapter** for any company or association doing business in this state, unless the company is possessed of the amount of capital and of actual paid-up capital, or of premium notes, cash premiums or guarantee fund, of the kind, character and amounts required of companies organized under the provisions of **[**sections 375.010 to 375.920**] this chapter**.

2. The guarantee fund of companies other than those of this state shall be deposited with the proper officer of the state or country under the laws of which the company is organized, or with the director **[**of the insurance department of this state**]**, in the manner provided by section 379.050, RSMo, in regard to the making of such deposit by companies organized under **[**sections 375.010 to 375.920**] this chapter**.

3. Whenever any insurance company doing business in this state advertises its assets, either in any newspaper or periodical, or by any sign, circular, card, policy of insurance or certificate of renewal thereof, it shall, in the same connection, equally conspicuously advertise its liabilities, and the amount of its assets available for fire and life losses separately, the same to be determined in the manner required in making statement to the **[**insurance**]** department, and all advertisements purporting to show the amount of capital of the company shall show only the amount of capital actually paid up in cash.

4. **[**Any insurance company or agent thereof violating the provisions of this section shall be liable to a fine of not less than fifty dollars nor more than five hundred dollars**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.**

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.

375.310. UNAUTHORIZED PERSONS OR CORPORATIONS ENJOINED FROM TRANSACTION OF INSURANCE BUSINESS, PENALTY. — **1. It is unlawful for** any **person,** association of individuals, **[**and**] or** any corporation **[**transacting**] to transact** in this state any insurance business**[**, without being**] unless the person, association, or corporation is duly** authorized by the director **[**of the insurance department of this state so to do, or after the authority so to do has been suspended, revoked, or has expired, shall be subject to suit by the director who may institute proceedings in the circuit court of the county or city in which said company was organized, or in which it has, or last had, its principal or chief office or place of business, or in the county of Cole, to enjoin said company from the further transaction of its business, either temporarily or perpetually, and for such other decrees and relief as the court shall deem advisable; or said association of individuals or corporation shall be liable to a penalty of two hundred and fifty dollars for each offense, which penalty may be recovered by ordinary civil action in the name of the state, and shall, when recovered, become part of the school fund, as by law provided for

other fines and penalties; suit for said penalty may be brought by the attorney general, the director of the insurance department, or any county, circuit or prosecuting attorney, in either the city or county in which the policy was delivered, or in which the money was paid to any agent of such association or corporation, or in which the receipt was delivered, or in any county or city in which an attorney for service or any agent of said association or corporation may be found; and if the plaintiff recover, an attorney fee to be allowed by the court for each cause of action upon which recovery is had shall be taxed as and added to the costs; service shall be made of process in any such action, either as in other civil actions or as provided in sections 375.010 to 375.920 for service on insurance companies**] under a certificate of authority or appropriate licensure, or is an insurance company exempt from certification under section 375.786.**

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level four violation under section 374.049, RSMo.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level four violation under section 374.049, RSMo.

4. Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class D felony.

5. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

6. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

375.320. NOT TO TRADE — EXCEPTION. — 1. No insurance company formed under the laws of this state shall, directly or indirectly, deal or trade in any goods, wares, merchandise or other commodities whatsoever, except such as may be incident to and necessary in connection with the ownership and operation of property held under the provisions of sections 375.330 and 375.340.

2. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.330. PURCHASE AND OWNERSHIP OF REAL ESTATE. — 1. No insurance company formed under the laws of this state shall be permitted to purchase, hold or convey real estate, excepting for the purpose and in the manner herein set forth, to wit:

(1) Such as shall be necessary for its accommodation in the transaction of its business; provided that before the purchase of real estate for any such purpose, the approval of the director of the department of insurance must be first had and obtained, and except with the approval of the director, the value of such real estate, together with all appurtenances thereto, purchased for such purpose shall not exceed twenty percent of the insurance company's capital and surplus as shown by its last annual statement; or

(2) Such as shall have been mortgaged in good faith by way of security for loans previously contracted, or for moneys due; or

(3) Such as shall have been conveyed to it in satisfaction of debts contracted in the course of its dealings; or

(4) Such as shall have been purchased at sales upon the judgments, decrees or mortgages obtained or made for such debts; or

(5) Such as shall be necessary and proper for carrying on its legitimate business under the provisions of the Urban Redevelopment Corporations Act; or

(6) Such as shall have been acquired under the provisions of the Urban Redevelopment Corporations Act permitting such company to purchase, own, hold or convey real estate; or

(7) Such real estate, or any interest therein, as may be acquired or held by it by purchase, lease or otherwise, as an investment for the production of income, which real estate or interest therein may thereafter be held, improved, developed, maintained, managed, leased, sold or conveyed by it as real estate necessary and proper for carrying on its legitimate business; or

(8) A reciprocal or interinsurance exchange may, in its own name, purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the title to real property for the purposes and objects of the reciprocal or interinsurance exchange. Such deeds, notes, mortgages or other documents relating to real property may be executed by the attorney in fact of the reciprocal or interinsurance exchange. This provision shall be retroactive and shall apply to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

2. The investments acquired under subdivision (7) of subsection 1 of this section may be in either existing or new business or industrial properties, or for new residential properties or new housing purposes.

3. Provided, no such insurance company shall invest more than ten percent of its admitted assets, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the department of insurance of the state of Missouri, in the total amount of real estate acquired under subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any one property, nor more under subdivision (7) of subsection 1 than one percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in total properties leased or rented to any one individual, partnership or corporation.

4. It shall not be lawful for any company incorporated as aforesaid to purchase, hold or convey real estate in any other case or for any other purpose; and all such real estate acquired in payment of a debt, by foreclosure or otherwise, and real estate exchanged therefor, shall be sold and disposed of within ten years after such company shall have acquired absolute title to the same, unless the company owning such real estate or interest therein shall elect to hold it pursuant to subdivision (7) of subsection 1.

5. The director of the department of insurance may, for good cause shown, extend the time for holding such real estate acquired in paying of a debt, by foreclosure or otherwise, and real estate exchanged therefor, and not held by the company under subdivision (7) of subsection 1, for such period as he may find to be to the best interests of the policyholders of said company.

6. If a life insurance company depositing under section 376.170, RSMo, becomes the owner of real estate pursuant to this section, the company may execute its own deed for the real estate to the director of the department of insurance, as trustee. The deed may be deposited with the director as proper security, under and according to the provisions of sections 376.010 to 376.670, RSMo, the value to be subject to the approval of the director.

7. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.340. SALE AND EXCHANGE OF REAL ESTATE. — 1. In all cases in which life insurance companies, benefit societies or other associations doing business in this state shall have legally acquired by foreclosure or in payment of a debt previously contracted any real estate or personal property situated in this state or elsewhere, said company, society or association may upon the

sale of said property take in payment or part payment thereof the stocks or bonds of any company or corporation purchasing said property and may exchange any real estate acquired in foreclosure or in payment of debts, in whole or in part, for other real estate.

2. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.345. DERIVATIVE TRANSACTIONS PERMITTED, CONDITIONS — DEFINITIONS — RULES. — 1. As used in this section, the following words and terms mean:

(1) "Admitted assets", assets permitted to be reported as admitted assets on the statutory financial statement of the insurance company most recently required to be filed with the director, but excluding assets of separate accounts, the investments of which are not subject to the provisions of law governing the general investment account of the insurance company;

(2) "Cap", an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price, level, performance, or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price;

(3) "Collar", an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor;

(4) "Counterparty exposure amount":

(a) The amount of credit risk attributable to an over-the-counter derivative instrument. The amount of credit risk equals:

a. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurance company; or

b. Zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurance company;

(b) If over-the-counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties, and the domicile of the counterparty is either within the United States or within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum of:

a. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurance company; and

b. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurance company to the business entity;

(c) For open transactions, market value shall be determined at the end of the most recent quarter of the insurance company's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurance company or placed in escrow by one or both parties;

(5) "Derivative instrument", an agreement, option, instrument, or a series or combination thereof that makes, takes delivery of, assumes, relinquishes, or makes a cash settlement in lieu of a specified amount of one or more underlying interests, or that has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests. Derivative instruments also include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto, and any other agreements, options, or instruments permitted under rules or orders promulgated by the director;

(6) "Derivative transaction", a transaction involving the use of one or more derivative instruments;

(7) "Director", the director of the department of insurance of this state;

(8) "Floor", an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor

rate or price, exceeds a reference price, level, performance, or value of one or more underlying interests;

(9) "Forward", an agreement other than a future to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of, one or more underlying interests, but not including spot transactions effected within customary settlement periods, when issued purchases or other similar cash market transactions;

(10) "Future", an agreement traded on an exchange to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests and which includes an insurance future;

(11) "Hedging transaction", a derivative transaction that is entered into and maintained to reduce:

(a) The risk of economic loss due to a change in the value, yield, price, cash flow or quantity of assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring;

(b) The currency exchange rate risk or the degree of exposure as to assets or liabilities that the insurance company has acquired or incurred or anticipates acquiring or incurring; or

(c) Risk through such other derivative transactions as may be specified to constitute hedging transactions by rules or orders adopted by the director;

(12) "Income generation transaction":

(a) A derivative transaction involving the writing of covered call options, covered put options, covered caps or covered floors that is intended to generate income or enhance return; or

(b) Such other derivative transactions as may be specified to constitute income generation transactions in rules or orders adopted by the director;

(13) "Initial margin", the amount of cash, securities or other consideration initially required to be deposited to establish a futures position;

(14) "NAIC", the National Association of Insurance Commissioners;

(15) "Option", an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend, terminate or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests;

(16) "Over-the-counter derivative instrument", a derivative instrument entered into with a business entity other than through an exchange or clearinghouse;

(17) "Potential exposure", the amount determined in accordance with the NAIC Annual Statement Instructions;

(18) "Replication transaction", a derivative transaction effected either separately or in conjunction with cash market investments included in the insurer's investment portfolio and intended to replicate the investment characteristic of another authorized transaction, investment or instrument or to operate as a substitute for cash market transactions. A derivative transaction that is entered into as a hedging transaction or an income generation transaction shall not be considered a replication transaction;

(19) "SVO", the Securities Valuation Office of the NAIC or any successor office established by the NAIC;

(20) "Swap", an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests;

(21) "Underlying interest", the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities or derivative instruments;

(22) "Warrant", an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement.

2. An insurance company**, including those organized under chapter 376, RSMo,** may, directly or indirectly through an investment subsidiary, engage in derivative transactions pursuant to this section under the following conditions:

(1) In general:

(a) An insurance company may use derivative instruments pursuant to this chapter to engage in hedging transactions and certain income generation transactions;

(b) Upon request, an insurance company shall demonstrate to the director the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses;

(2) An insurance company shall only maintain its position in any outstanding derivative instrument used as part of a hedging transaction for as long as the hedging transaction continues to be effective;

(3) An insurance company may enter into hedging transactions if as a result of and after giving effect to the transaction:

(a) The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions then engaged in by the insurer does not exceed seven and one-half percent of its admitted assets;

(b) The aggregate statement value of options, caps and floors written in hedging transactions then engaged in by the insurer does not exceed three percent of its admitted assets; and

(c) The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions then engaged in by the insurer does not exceed six and one-half percent of its admitted assets;

(4) An insurance company may only enter into the following types of income generation transactions if as a result of and after giving effect to an income generation transaction, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, shall not exceed ten percent of its admitted assets:

(a) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(b) Sales of covered call options on equity securities if the insurance company holds in its portfolio or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

(c) Sales of covered puts on investments that the insurance company is permitted to acquire under the applicable insurance laws of the state, if the insurance company has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

(d) Sales of covered caps or floors if the insurance company holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding;

(5) An insurance company may use derivative instruments for replication transactions only after the director promulgates reasonable rules that set forth methods of disclosure, reserving for risk-based capital, and determining the asset valuation reserve for these instruments. Any asset being replicated is subject to all the provisions and limitations on the making thereof specified in this chapter and chapters 376 and 379, RSMo, with respect to investments by the insurer as if the transaction constituted a direct investment by the insurer in the replicated asset;

(6) An insurance company shall include all counterparty exposure amounts in determining compliance with this state's single-entity investment limitations;

(7) The director may approve, by rule or order, additional transaction conditions involving the use of derivative instruments for other risk management purposes.

3. Written investment policies and record-keeping procedures shall be approved by the board of directors of the insurance company or by a committee authorized by such board before the insurance company may engage in the practices and activities authorized by this section. These policies and procedures must be specific enough to define and control permissible and suitable investment strategies with regard to derivative transactions with a view toward the protection of the policyholders. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors.

4. The director may promulgate reasonable rules and regulations pursuant to the provisions of chapter 536, RSMo, not inconsistent with this section and any other insurance laws of this state, establishing standards and requirements relating to practices and activities authorized in this section, including, but not limited to, rules which impose financial solvency standards, valuation standards, and reporting requirements.

375.445. COMPANY OPERATING FRAUDULENTLY OR IN BAD FAITH, PENALTIES. — 1. **[**When upon investigation the director finds that**] It is unlawful for** any **insurance** company transacting business **[**in**] under the laws of** this state **[**has conducted**] to:**

(1) Conduct its business fraudulently**[**, is not carrying**];**

(2) Fail to carry out its contracts in good faith**[**, or is**]; or**

(3) Habitually and as a matter of business practice compelling claimants under policies or liability judgment creditors of the insured to either accept less than the amount due under the terms of the policy or resort to litigation against the company to secure payment of the amount due**[**, and that a proceeding in respect thereto would be in the interest of the public, he shall issue and serve upon the company a statement of the charges in that respect and a notice of a hearing thereon**]**.

2. **[**If after the hearing the director shall determine that the company has fraudulently conducted its business as defined in this section, he shall order the company to cease and desist from the fraudulent practice and may suspend the company's certificate of authority for a period not to exceed thirty days and may in addition order a forfeiture to the state of Missouri of a sum not to exceed one thousand dollars, which forfeiture may be recovered by a civil action brought by and in the name of the director of insurance. The civil action may be brought in the circuit court of Cole County or, at the option of the director of insurance, in another county which has venue of an action against the person, partnership or corporation under other provisions of law**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo**. The director **[**of insurance**]** may also suspend or revoke the license **[**of an insurer or agent**] or certificate of authority of such person** for any **[**such**]** willful violation.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice violation of this section is a level two violation under section 374.049, RSMo. Each act as part of a practice does not constitute a separate violation under section 374.049, RSMo.

375.480. WITHDRAWAL OF SECURITIES — NOTICE — EXAMINATION BY DIRECTOR. — 1. When any company, which has on deposit the securities named in **[**sections**]** **section** 376.170 **[**and 376.300**]**, RSMo, with the director of the insurance department, shall desire to relinquish and cease its business in this state, said director shall, upon application of such company, under the oath of the president or vice president and secretary or assistant secretary, give notice of such intention in any newspaper of general circulation published in the county or city in which said company is located, if it is a company of this state, or in some newspaper published in the city of St. Louis, if it is a company of another state or government, at least twice a week for six weeks.

2. After such publication he shall deliver up and transfer to said company the securities held by him and belonging to the company; but before making such transfer, the director shall be satisfied, by an examination of the books and papers of such company, to be made by himself or some competent person to be appointed by him, or by the oath of the acting president and secretary or assistant secretary of said company if it be a company organized under the laws of this state, that all debts and liabilities of every kind that are due, or may become due, upon all contracts or agreements made with the policyholders in said company, or in any company reinsured by said company, if the deposit is that of a reinsured company and is held for the security of the policyholders of said reinsured company under sections 375.010 to 375.920, are released, satisfied or extinguished; or if it be a company not organized under the laws of this state, that all debts and liabilities of every kind, whether fixed or contingent, due or that may become due to this state or to any county or municipality or citizen thereof, are released, satisfied or extinguished; and the said director may, from time to time, authorize the delivery in the manner aforesaid, to such company or its assigns, of any portion of such securities, on being satisfied in the manner and form aforesaid, that all debts and liabilities of every kind as aforesaid are less than one-half the amount of the said securities which are retained.

375.532. INVESTMENT IN DEBT OF INSTITUTION PERMITTED, WHEN. — 1. The capital, reserve and surplus of a domestic insurer may be invested in bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares, issued, assumed or guaranteed by an institution organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, if such bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares, shall carry at least the second highest designation or quality rating conferred by the Securities Valuation Office of the National Association of Insurance Commissioners, or some similar or equivalent rating by a nationally recognized rating agency which has been approved by the director.

2. As used in this section, the term "institution" means a corporation, a joint stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

3. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.534. FOREIGN GOVERNMENTS OR CORPORATIONS, INVESTMENT IN PERMITTED — CONDITIONS, REQUIREMENTS. — **1.** In addition to other foreign investments permitted by Missouri law for the type or kind of insurance company involved, the capital, reserves and surplus of all insurance companies of whatever kind and character organized under the laws of this state, having admitted assets of not less than one hundred million dollars, may be invested in securities, investments and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or located in a foreign country, whether denominated in United States dollars or in foreign currency, subject to the following conditions:

(1) Such securities, investments and deposits shall be of substantially the same kind, class and quality of like United States investments eligible for investment by an insurance company under Missouri law;

(2) An insurance company shall not invest or deposit in the aggregate more than five percent of its admitted assets under this section, except that an insurance company may reinvest or redeposit any income or profits generated by investments permitted under this section; and

(3) Such securities, investments and deposits shall be aggregated with United States investments of the same class in determining compliance with percentage limitations imposed under Missouri law for investments in that class for the type or kind of insurance company involved.

2. This section shall not apply to an insurer organized under chapter 376, RSMo.

375.720. PENALTY FOR FAILURE OR REFUSAL TO DELIVER ASSETS TO DIRECTOR. — 1. Whenever, by chapter 375, or by any other law of this state, the director is authorized or required to take possession of any of the general assets of any insurer, **it is unlawful for** any person or company **[**who shall**] to** knowingly neglect or refuse to deliver to the director, on **[**his**]** order or demand **of the director**, any books, papers, evidences of title or debt, or any property belonging to any such insurer in its, his or their possession, or under his, its or their control**[**, shall be guilty of a class C felony**]**.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level three violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level three violation under section 374.049, RSMo.

4. Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class C felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the director to revoke such license.

5. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

6. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

375.777. DIRECTOR OF INSURANCE, POWERS AND DUTIES. — 1. The director shall:

(1) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency;

(2) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer; and

(3) Notify the agents of the insolvent insurer of the determination of insolvency and of the insureds' rights under sections 375.771 to 375.779. Such notification shall be by first class mail

at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

2. The director may**[**:

(1)**]** require each agent of the insolvent insurer to give prompt written notice, by first class mail, at the insured's last known address, to each insured of the insolvent insurer for whom he was agent of record, provided the agent has received the notification of subsection 1 of this section**[**; and

(2) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of**].**

3. It is unlawful for any member insurer **[**which fails**] to fail** to pay an assessment when due or **[**fails**] fail** to comply with the plan of operation. **[**As an alternative, the director may levy an administrative penalty on any member insurer which fails to pay an assessment when due. Such administrative penalty shall not exceed five percent of the unpaid assessment per month, except that no administrative penalty shall be less than one hundred dollars per month.

3. Any final action or order of the director under this section shall be subject to judicial review in the circuit court of Cole County**] Every day in which the member insurer fails to pay is a separate violation.**

4. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.

375.780. PENALTIES FOR VIOLATION OF THIS CHAPTER. — **[**Every violation of**] 1. A person commits a crime if he or she willfully violates** any of the provisions of **[**sections 375.010 to 375.920**] this chapter. If** not otherwise specifically provided for **[**shall be deemed a misdemeanor, and shall subject the individual, association of individuals or corporation violating the same to a penalty of not less than fifty nor more than five hundred dollars for each offense; such penalty may be recovered and sued for against corporations or associations in the manner provided and by any of the officers designated in section 375.310, and against individuals by civil action, by information or by indictment, and an attorney's fee of twenty-five dollars shall be taxed as costs against the defendant, as in said section; all fines and penalties recovered under sections 375.010 to 375.920 shall be turned into the school fund, as provided by law for other fines and penalties**] , the crime is a class B misdemeanor**.

2. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

3. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

375.786. CERTIFICATE OF AUTHORITY REQUIRED — EXCEPTIONS — ACTS WHICH ARE DEEMED TRANSACTION OF INSURANCE BUSINESS — PENALTY FOR TRANSACTING BUSINESS WITHOUT CERTIFICATE OF AUTHORITY. — 1. It **[**shall be**]** **is** unlawful for any insurance company to transact insurance business in this state, as set forth in subsection 2, without a certificate of authority from the director; provided, however, that this section shall not apply to:

(1) The lawful transaction of insurance as provided in chapter 384, RSMo;

(2) The lawful transaction of reinsurance by insurance companies;

(3) Transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy;

(4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;

(5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurance company was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs;

(6) Transactions in this state involving any policy of insurance or annuity contract issued prior to August 13, 1972;

(7) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy;

(8) Except as provided in chapter 384, RSMo, transactions in this state involving contracts of insurance issued to one or more industrial insureds; provided that nothing herein shall relieve an industrial insured from taxation imposed upon independently procured insurance. An "industrial insured" is hereby defined as an insured:

(a) Which procures the insurance of any risk or risks other than life, health and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of **[**a regularly and continuously retained qualified insurance consultant**]** **an insurance producer whose services are wholly compensated by such insured and not by the insurer**;

(b) Whose aggregate annual premiums for insurance excluding workers' compensation insurance premiums total at least **[**twenty-five**]** **one hundred** thousand dollars; and

(c) Which has at least twenty-five full-time employees;

(9) Transactions in this state involving life insurance, health insurance or annuities provided to educational or religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions, provided that any company issuing such contracts under this paragraph shall:

(a) File a copy of any policy or contract issued to Missouri residents with the director;

(b) File a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the director; and

(c) Provide, in such form as may be acceptable to the director, for the appointment of the director as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Missouri citizen, and process so served against such company shall have the same form and validity as if served upon the company;

(10) Transactions in this state involving accident, health, personal effects, liability or any other travel or auto-related products or coverages provided or sold by a rental company after January 1, 1994, to a renter in connection with and incidental to the rental of motor vehicles.

2. Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurance company is deemed to constitute the transaction of an insurance business in this state: (The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurance company" as used in sections 375.786 to 375.790 includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.)

(1) The making of or proposing to make an insurance contract;

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

(3) The taking or receiving of any application for insurance;

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof;

(5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;

(6) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurance company in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurance company in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer;

(7) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance;

(8) The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

3. (1) The failure of an insurance company transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurance company and shall not prevent such insurance company from defending any action at law or suit in equity in any court of this state, but no insurance company transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim or demand arising out of the transaction of such business until such insurance company shall have obtained a certificate of authority.

(2) In the event of failure of any such unauthorized insurance company to pay any claim or loss within the provisions of such insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

4. **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level four violation under section 374.049, RSMo.**

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level four violation under section 374.049, RSMo.

6. Any person who transacts insurance business without a certificate of authority, as provided in this section, is guilty of a class C felony.

7. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

8. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime in any other state statute.

375.881. REVOCATION OR SUSPENSION OF CERTIFICATE OF AUTHORITY, WHEN (FOREIGN COMPANY). — **[**1.**]** The director may revoke or suspend the certificate of authority of a foreign insurance company **[**or may by order require the insurance company to pay to the people of the state of Missouri a penalty in a sum not exceeding five hundred dollars and upon failure of the insurance company to pay the penalty within twenty days after the mailing of the order, postage prepaid, certified, and addressed to the last known place of business of the insurance company, unless the order is stayed by an order of a court of competent jurisdiction, the director of insurance may revoke or suspend the license of the insurance company for any period of time**] under section 374.047, RSMo, or issue such administrative orders as appropriate under section 374.046, RSMo**, whenever he finds that the company

(1) Is insolvent;

(2) Fails to comply with the requirements for admission in respect to capital, the investment of its assets or the maintenance of deposits in this or other state or fails to maintain the surplus which similar domestic companies transacting the same kinds of business are required to maintain;

(3) Is in such a financial condition that its further transaction of business in this state would be hazardous to policyholders and creditors in this state and to the public;

(4) Has refused or neglected to pay a valid final judgment against the company within thirty days after the rendition of the judgment;

(5) Has refused to submit to the jurisdiction of a court of this state upon the grounds of diversity of citizenship in a cause of action arising out of business transacted, acts done, or contracts made in this state by the foreign insurance company;

(6) Has violated any law of this state or has in this state violated its charter or exceeded its corporate powers;

(7) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable inspection or examination of the director, his actuaries, deputies or examiners;

(8) Has an officer who has refused upon reasonable demand to be examined under oath touching its affairs;

(9) Fails to file its annual statement within thirty days after the date when it is required by law to file the statement;

(10) Fails to file with the director a copy of an amendment to its charter or articles of association within thirty days after the effective date of the amendment;

(11) Fails to file with the director copies of the agreement and certificate of merger and the financial statements of the merged companies, if required, within thirty days after the effective date of the merger;

(12) Fails to pay any fees, taxes or charges prescribed by the laws of this state within thirty days after they are due and payable; provided, however, that in case of objection or legal contest the company shall not be required to pay the tax until thirty days after final disposition of the objection or legal contest;

(13) Fails to file any report for the purpose of enabling the director to compute the taxes to be paid by the company within thirty days after the date when it is required by law to file the report;

(14) Has had its corporate existence dissolved or its certificate of authority revoked in the state or country in which it was organized;

(15) Has had all its risks reinsured in their entirety in another company; or

(16) Has ceased to transact the business of insurance in this state for a period of one year.

[2. The director shall not revoke or suspend the certificate of authority of a foreign insurance company until he has given the company at least twenty days' notice of the revocation or suspension and of the grounds therefor and has afforded the company an opportunity for a hearing.**]**

375.940. PROCEDURE ON CHARGES OR BELIEF OF UNFAIR PRACTICES. — **[**1.**]** Whenever the director shall have reason to believe that any person or insurer has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice **in violation of sections 375.930 to 375.948**, and that a proceeding by **[**him**] the director** in respect thereto would be to the interest of the public, **[**he**] the director** shall issue and serve upon such person or insurer a statement of the charges **[**in that respect and a notice of hearing thereon to be held at a time and place fixed in the notice which shall not be less than twenty days after the date of service thereof.

2. At the time and place fixed for such hearing, such person or insurer shall have an opportunity to be heard to show cause why an order should not be made by the director requiring such person or insurer to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the director shall permit any person to intervene, appear and be heard at such hearing by counsel or in person. Nothing herein shall preclude the informal disposition of any case by stipulation, consent order, or default, or by agreed settlement where such settlement is in conformity with law.

3. Nothing contained in sections 375.930 to 375.948 shall require the observance at any such hearing of formal rules of pleading or evidence.

4. Upon such hearing, the director shall have power to examine and cross-examine witnesses, receive oral and documentary evidence, administer oaths, subpoena witnesses and compel their attendance, and require the production of books, papers, records, correspondence and all other written instruments or documents which he deems relevant to the inquiry. The director, upon any such hearing, shall cause to be made a record of all the evidence and all the proceedings had at such hearing. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the circuit court of Cole County or the county where such party resides, or may be found, on application of the director, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

5. Statements of charges, notices, orders, and other processes of the director under sections 375.930 to 375.948 may be served by anyone duly authorized by the director either in the manner provided by law for service of process in civil actions, or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or

other process, registered and mailed as aforesaid, shall be proof of the service of the same**] under the procedures set forth in section 374.046, RSMo**.

375.942. ADMINISTRATIVE ORDER FOR PROHIBITED PRACTICES — PENALTY. — 1. **[**If, after such hearing, the director determines that the person charged has engaged in an unfair method of competition or in an unfair or deceptive act or practice prohibited by section 375.934 or 375.937, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring such person to cease and desist from engaging in such method of competition, act or practice, and thereafter the director may, at his discretion, order one or more of the following:

(1) Payment of a monetary penalty of not more than one thousand dollars for each violation but not to exceed an aggregate penalty of one hundred thousand dollars in any twelve-month period unless the violation was committed flagrantly and in conscious disregard of section 375.934 or 375.937, in which case the penalty shall be not more than twenty-five thousand dollars for each violation but not to exceed an aggregate penalty of two hundred fifty thousand dollars in any twelve-month period;

(2) Suspension or revocation of the insurer's license if such insurer knew or reasonably should have known it was in violation of section 375.934 or 375.937.

2. Until the expiration of the time allowed under section 375.944 for filing a petition for judicial review, if no such petition has been duly filed within such time or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the circuit court of Cole County, the director may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

3. After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the director may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

4. Nothing contained in sections 375.930 to 375.948 shall be construed to prohibit the director and the person from agreeing to a voluntary forfeiture with or without proceedings being instituted. Any sum so agreed upon shall be paid into the school fund as provided by law for other fines and penalties**] If the director determines that an insurer has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding a practice constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of section 375.934 is a level two violation under section 374.049, RSMo. Each act as part of a trade practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer for any willful violation.**

2. If the director believes that an insurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business conduct constituting a violation of sections 375.930 to 375.948 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of section 375.934 is a level two violation under section 374.049, RSMo. Each act as part of a trade practice does not constitute a separate violation under section 374.049, RSMo.

375.946. VIOLATION OF DESIST ORDER, PENALTY. — **[** Any person who violates**] It is unlawful for any person to violate any provision of** a cease and desist order of the director under section 375.942**[**, while such order is in effect, may, after notice and hearing, and upon order of the director, be subject to either or both of the following:

(1) A monetary penalty of not more than twenty-five thousand dollars for each and every act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars pursuant to any such hearing; or

(2) Suspension or revocation of such person's license or certificate of authority**]**. **The director may institute an action under sections 374.046 and 374.047, RSMo, as necessary to enforce any such order.**

375.994. INVESTIGATORS TO HAVE POWER OF SUBPOENA — MONEYS, COSTS OR FINES TO BE DEPOSITED IN INSURANCE DEDICATED FUND — POWERS OF DIRECTOR FOR VIOLATIONS, PENALTIES. — 1. Department investigators shall have the power to serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations.

2. It is unlawful for any person to interfere, either by abetting or assisting such resistance or otherwise interfering, with department investigators in the duties imposed upon them by law or department rule.

3. Any moneys, or other property which is awarded to the department as costs of investigation, or as a fine, shall be credited to the **[**department of**]** insurance dedicated fund created by section 374.150, RSMo.

4. **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.**

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

6. Nothing in this section shall be construed as prohibiting the department of insurance from regulating unfair or fraudulent trade practices as provided for in sections 375.930 to 375.948.

[5. In the event**] 7. If** the director determines that a person regulated under this chapter has conducted its business fraudulently with respect to sections 375.991 to 375.994, or has as a matter of business practice abused its rights under said sections, such conduct shall **[**be considered**] constitute** either an unfair trade practice under the provisions of sections 375.930 to 375.948 or an unfair claims settlement practice under the provisions of sections 375.1000 to 375.1018. **[**The director shall have the power and authority, pursuant to the unfair trade practices act and the unfair claims settlement practices act to subject such persons to the monetary penalty or suspend or revoke such person's license or certificate of authority, under such acts.**]**

375.1010. DIRECTOR MAY INITIATE PROCEEDINGS. — 1. **[**Whenever the director shall have reason to believe that any insurer has been engaged or is engaging in this state in any improper claims practice, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person or insurer a statement of the charges in that respect and a notice of hearing thereon to be held at a time and place fixed in the notice which shall not be less than twenty days after the date of service thereof.

2. At the time and place fixed for such hearing, such insurer shall have an opportunity to be heard to show cause why an order should not be made by the director requiring such insurer to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the director shall permit any person to intervene, appear and be heard at such hearing by counsel or in person. Nothing in sections 375.1000 to 375.1018 shall preclude the informal disposition of any case by stipulation, consent order, or default, or by agreed settlement where such settlement is in conformity with law.

3. Nothing contained in sections 375.1000 to 375.1018 shall require the observance at any such hearing of formal rules of pleading or evidence.

4. Upon such hearing, the director may examine and cross-examine witnesses, receive oral and documentary evidence, administer oaths, subpoena witnesses and compel their attendance, and require the production of books, papers, records, correspondence and all other written instruments or documents which he deems relevant to the inquiry. The director, upon any such hearing, shall cause to be made a record of all the evidence and all the proceedings had at such hearing. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the circuit court of Cole County or the county where such party resides, or may be found, on application of the director, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

5. Statements of charges, notices, orders, and other processes of the director under sections 375.1000 to 375.1018 may be served by anyone duly authorized by the director either in the manner provided by law for service of process in civil actions, or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer for any willful violation.**

2. If the director believes that an insurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. Each practice in violation of section

375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a separate violation under section 374.049, RSMo.

375.1014. JUDICIAL REVIEW. — 1. **[**Any person, including any person who has been permitted to intervene, who is aggrieved by a final order or decision of the director shall be entitled to judicial review thereof.

2. The court shall make and enter upon the pleadings evidence and proceedings set forth in the transcript a degree modifying, affirming or reversing the order of the director, in whole or in part. To the extent that the order of the director is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the director. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the director, the court may order such additional evidence to be taken before the director and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The director may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings which are supported by evidence on the record and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

3. An order issued by the director under section 375.1012 shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the director may thereafter modify or set aside his order to the extent provided in subsection 2 of section 375.1012; or

(2) Upon the final decision of the court if the court directs that the order of the director be affirmed or the petition for review dismissed.

4.**] A final order issued by the director under sections 375.1000 to 375.1018 is subject to judicial review in accordance with the provisions of chapter 536, RSMo, in the circuit court of Cole County.**

2. No order of the director under section 375.942 or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

375.1016. VIOLATION OF CEASE AND DESIST ORDER. — **[**Any person who violates**] It is unlawful for any person to violate any provision of** a cease and desist order of the director under section 375.1012, **[**while such order is in effect, may, after notice and hearing, and upon order of the director, be subject to either or both of the following:

(1) A monetary penalty of not more than twenty-five thousand dollars for each and every act or violation not to exceed an aggregate amount of two hundred fifty thousand dollars pursuant to any such hearing; or

(2) Suspension or revocation of such person's license or certificate of authority**] and the director may institute an action under sections 374.046 and 374.047, RSMo, as necessary to enforce any such order**.

375.1070. CITATION OF LAW — INAPPLICABILITY. — 1. Sections 375.1070 to 375.1075 may be cited as the "Investments in Medium and Lower Quality Obligations Law".

2. Sections 375.1070 to 375.1075 shall not apply to an insurer organized under chapter 376, RSMo.

375.1072. DEFINITIONS. — As used in sections 375.1070 to 375.1075, the following terms mean:

(1) "Admitted assets", the amount thereof as of the last day of the most recently concluded annual statement year, computed in the same manner as admitted assets in **[**sections 376.300 to 376.309, RSMo, for life insurers and**]** section 379.080, RSMo, for insurers other than life;

(2) "Aggregate amount of medium to lower quality obligations", the aggregate statutory statement value thereof;

(3) "Institution", a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity;

(4) "Medium to lower quality obligations", obligations which are rated three, four, five and six by the Securities Valuation Office of the National Association of Insurance Commissioners.

375.1075. LIMITATIONS ON AGGREGATE OF MEDIUM OR LOWER QUALITY INVESTMENTS, REQUIREMENTS. — 1. No domestic insurer shall acquire, directly or indirectly, any medium or lower quality obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium and lower quality obligations then held by the domestic insurer would exceed twenty percent of its admitted assets, and no more than ten percent of its admitted assets consists of obligations rated four, five or six by the Securities Valuation Office, and no more than three percent of its admitted assets consists of obligations rated five or six by the Securities Valuation Office, and no more than one percent of its admitted assets consists of obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multicategory limits.

2. The provisions of this section shall not prohibit a domestic insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this section on the date on which such insurer committed to purchase that obligation.

3. Notwithstanding the other provisions of this section, a domestic insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, provided that all such acquired obligations shall not exceed one-half of one percent of the insurer's admitted assets.

4. The board of directors of any domestic insurance company which acquires or invests in, directly or indirectly, medium or lower quality obligations of any institution shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the obligations invested in, shall contain diversification standards including, but not limited to, standards for issuer, industry, duration, liquidity and geographic location.

5. No investments in excess of the limitations provided by this act shall be recognized as an asset of the insurer pursuant to **[**section 376.307, RSMo, and**]** section 379.080, RSMo.

375.1135. PENALTIES, DIRECTOR MAY ASSESS, PROCEDURES. — 1. **[**A reinsurance intermediary, insurer or reinsurer found by the director, after a hearing conducted in accordance with chapter 536, RSMo, to be in violation of any provisions of sections 375.1110 to 375.1140, shall:

(1) For each separate violation, pay a penalty in an amount not exceeding five thousand dollars;

(2) Be subject to revocation or suspension of its license; and

(3)**]** **If the director determines that a reinsurance intermediary, insurer, or reinsurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of a reinsurance intermediary, insurer, or reinsurer for any willful violation.**

2. If the director believes that a reinsurance intermediary, insurer, or reinsurer has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1110 to 375.1140 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

3. In addition to any other relief authorized by sections 374.046 and 374.047, RSMo, if a violation was committed by the reinsurance intermediary, such reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such violation.

[2. The decision, determination or order of the director pursuant to subsection 1 of this section shall be subject to judicial review pursuant to sections 536.100 to 536.140, RSMo.

3. Nothing contained in this section shall affect the right of the director to impose any other penalties provided by law.**]**

4. Nothing contained in sections 375.1110 to 375.1140 is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or confer any rights to such persons.

375.1156. COOPERATION WITH RECEIVER AND DIRECTOR REQUIRED — PENALTY. — 1. Any officer, manager, director, trustee, owner, employee or agent of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the director or any receiver in any proceeding under sections 375.1150 to 375.1246 or any investigation preliminary to the proceeding. The term "person" as used in this section, shall include any person who exercises control directly or indirectly over activities of the insurer through any holding company or other affiliate of the insurer. "To cooperate" shall include, but shall not be limited to, the following:

(a) To reply promptly in writing to any inquiry from the director requesting such a reply; and

(b) To make available to the director any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in its possession, custody or control.

2. **[**No person shall**] It is unlawful for any person included in subsection 1 of this section to** obstruct or interfere with the director in the conduct of any delinquency proceeding or any investigation preliminary or incidental thereto.

3. This section shall not be construed to abridge otherwise existing legal rights, including the right to resist a petition for liquidation or other delinquency proceedings, or other orders.

4. **[**Any person included within subsection 1 of this section who fails to cooperate with the director, or any person who knowingly obstructs or interferes with the director in the conduct of any delinquency proceeding or any investigation preliminary or incidental thereto, or who knowingly violates any order the director issued validly under sections 375.1150 to 375.1246 shall be guilty of a class A misdemeanor, and, in addition thereto, after a hearing, shall be subject to the imposition by the director of an administrative penalty not to exceed ten thousand dollars for each occurrence or violation and shall be subject further to the revocation or suspension of any insurance licenses issued by the director. Moneys collected pursuant to the imposition of such administrative penalties shall be transferred to the state treasurer and deposited to the general revenue fund.

5.**]** In any proceeding under sections 375.1150 to 375.1246, the director and his deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may at any time require an additional bond from the director or his deputies, and such bonds shall be paid for out of the assets of the insurer as a cost of administration.

375.1160. ADMINISTRATIVE SUPERVISION BY DIRECTOR, PROCEDURES, ALLOWED WHEN — PROCEEDINGS CONFIDENTIAL, EXCEPTIONS — POWERS OF ADMINISTRATIVE SUPERVISOR — PENALTIES FOR VIOLATIONS — DIRECTOR MAY ADOPT RULES — IMMUNITY FROM LIABILITY FOR DIRECTOR AND EMPLOYEES. — 1. As used in this section:

(1) "Exceeded its powers" means one or more of the following conditions:

(a) The insurer has refused to permit examination of its books, papers, accounts, records or affairs by the director, his deputy, employees or duly commissioned examiners;

(b) A domestic insurer has unlawfully removed from this state or is unable to produce books, papers, accounts or records necessary for an examination of the insurer;

(c) The insurer has failed to promptly comply with the applicable financial reporting statutes or rules and requests relating thereto;

(d) The insurer has neglected or refused to observe an order of the director to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

(e) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the director;

(f) The insurer, by contract or otherwise, has unlawfully or has in violation of an order of the director or has without first having obtained written approval of the director if approval is required by law:

a. Totally reinsured its entire outstanding business, or

b. Merged or consolidated substantially its entire property or business with another insurer;

(g) The insurer engaged in any transaction in which it is not authorized to engage under the laws of this state;

(h) A domestic insurer has committed or engaged in, or is about to commit or engage in, any act, practice or transaction that would subject it to delinquency proceedings under sections 375.1150 to 375.1246; or

(i) The insurer refused to comply with a lawful order of the director;

(2) "Consent" means agreement to administrative supervision by the insurer.

2. (1) An insurer may be subject to administrative supervision by the director if upon examination or at any other time it appears in the director's discretion that:

(a) The insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(b) The insurer exceeded its powers granted under its certificate of authority and applicable law;

(c) The insurer has failed to comply with the laws of this state relating to insurance;

(d) The business of the insurer is being conducted fraudulently; or

(e) The insurer gives its consent.

(2) If the director determines that the conditions set forth in subdivision (1) of this subsection exist, the director shall:

(a) Notify in writing the insurer of his determination;

(b) Furnish to the insurer a written list of his requirements to rescind his determination; and

(c) Notify the insurer that it is under the supervision of the director and that the director is applying and effectuating the provisions of this section.

(3) The notice of supervision under this subsection and any order issued pursuant to this section shall be served upon the insurer in writing by registered mail. The notice of supervision shall state the conduct, condition or ground upon which the director bases his order.

(4) If placed under administrative supervision, the insurer shall have sixty days, or another period of time as designated by the director, to comply with the requirements of the director subject to the provisions of this section. In the event of such insurer's failure to comply with such time periods, the director may institute proceedings under section 375.1165 or 375.1175 to have a rehabilitator or liquidator appointed, or to extend the period of supervision.

(5) If it is determined that none of the conditions giving rise to the supervision exist, the director shall release the insurer from supervision.

3. (1) Except as set forth in this subsection, all proceedings, hearings, notices, orders, correspondence, reports, records and other information in the possession of the director or the department **[**of insurance**]** relating to the supervision of any insurer are confidential except as provided by this section.

(2) Personnel of the department **[**of insurance**]** shall have access to these proceedings, hearings, notices, orders, correspondence, reports, records or information as permitted by the director.

(3) The director may open the proceedings or hearings or disclose the notices, orders, correspondence, reports, records or information to a department, agency or instrumentality of this or another state or the United States if the director determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state of the United States.

(4) The director may open the proceedings or hearings or make public the notices, orders, correspondence, reports, records or other information if the director deems that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors or the general public.

(5) This subsection does not apply to hearings, notices, correspondence, reports, records or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.

4. During the period of supervision, the director or his designated appointee shall serve as the administrative supervisor. The director may provide that the insurer shall not do any of the following things during the period of supervision, without the prior approval of the director or the appointed supervisor:

(1) Dispose of, convey or encumber any of its assets or its business in force;

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;

(4) Invest any of its funds;

(5) Transfer any of its property;

(6) Incur any debt, obligation or liability;

(7) Merge or consolidate with another company;

(8) Approve new premiums or renew any policies;

(9) Enter into any new reinsurance contract or treaty;

(10) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or contract, except for nonpayment of premiums due;

(11) Write any new or renewal business;

(12) Release, pay or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate or contract;

(13) Make any material change in management; or

(14) Increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends or other payments deemed preferential.

5. Any insurer subject to a supervision order under this section may seek review pursuant to section 536.150, RSMo, of that order within thirty days of the entry of the order of supervision. Such a request for a hearing shall not stay the effect of the order.

6. During the period of supervision the insurer may contest an action taken or proposed to be taken by the administrative supervisor specifying the manner in which the action being complained of would not result in improving the condition of the insurer. An insurer may request review pursuant to section 536.150, RSMo, of written denial of the insurer's request to reconsider pursuant to this subsection.

7. If any person has violated any supervision order issued under this section which as to him was still in effect, the director may **[**impose an administrative penalty in an amount not to exceed ten thousand dollars for each violation. Moneys collected pursuant to the imposition of such penalties shall be transferred to the state treasurer and deposited to the general revenue fund.

8. The director or administrative supervisor may apply for, and any court of general jurisdiction may grant, such restraining orders, preliminary and permanent injunctions, and other orders as may be deemed necessary and proper to enforce a supervision order.

9.**] initiate an action under section 375.1161.**

8. In the event that any person, subject to the provisions of sections 375.1150 to 375.1246, including those persons described in subsection 1 of section 375.1156, shall knowingly violate any valid order of the director issued under the provisions of this section and, as a result of such violation, the net worth of the insurer shall be reduced or the insurer shall suffer loss it would not otherwise have suffered, said person shall become personally liable to the insurer for the amount of any such reduction or loss. The director or administrative supervisor is authorized **under subsection 1 of section 375.1161** to bring an action on behalf of the insurer in any court of competent jurisdiction to recover the amount of reduction or loss together with any costs.

[10.**] 9.** Nothing contained in sections 375.1150 to 375.1246 shall preclude the director from initiating judicial proceedings to place an insurer in conservation, rehabilitation or liquidation proceedings or other delinquency proceedings, however designated under the laws of this state, regardless of whether the director has previously initiated administrative supervision proceedings under this section against the insurer.

[11.**] 10.** The director may adopt reasonable rules necessary for the implementation of this section.

[12.**] 11.** Notwithstanding any other provision of law, the director may meet with an administrative supervisor appointed under this section and with the attorney or other representative of the administrative supervisor, without the presence of any other person, at the time of any proceeding or during the pendency of any proceeding held under authority of this section to carry out his duties under this section or for the administrative supervisor to carry out his duties under this section.

[13.**] 12.** There shall be no liability on the part of, and no cause of action of any nature shall arise against, the director or the department of insurance or its employees or agents for any action taken by them in the performance of their powers and duties under this section.

375.1161. VIOLATIONS, PENALTIES. — 1. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level four violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1150 to 375.1246 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level four violation under section 374.049, RSMo.

375.1204. PAYMENT OF UNEARNED PREMIUMS REQUIRED — VIOLATION, PENALTIES. — 1. **[**An agent, broker,**] A producer,** premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of insolvency as shown on the

records of the insurer. The liquidator shall also have the right to recover from such person any part of an unearned premium that represents commission of such person. Credits or setoffs or both shall not be allowed to **[**an agent, broker,**]** **a producer** or premium finance company for any amounts advanced to the insurer by the **[**agent, broker,**]** **producer** or premium finance company on behalf of, but in the absence of a payment by the insured. An insured shall be obligated to pay any unpaid earned premium due the insurer at the time of the declaration of insolvency, as shown on the records of the insurer.

2. **[**Upon satisfactory evidence of a violation of this section, the director may pursue either one or both of the following courses of action:

(1) Suspend or revoke or refuse to renew any licenses issued by the department of insurance to such offending party or parties;

(2) Impose an administrative penalty of not more than one thousand dollars for each and every act in violation of this section by said party or parties. All amounts collected as a result of imposition of such administrative penalties shall be paid to the state treasurer for deposit to the general revenue fund.

3. Before the director shall take any action as set forth in subsection 2 of this section, he shall give written notice to the person, company, association or exchange accused of violating the law, stating specifically the nature of the alleged violation and fixing a time and place, at least ten days thereafter, when a hearing on the matter shall be held. After such hearing, or upon failure of the accused to appear at such hearing, the director, if he shall find such violation, shall impose such of the penalties under subsection 2 of this section as he deems advisable.

4. When the director shall take any action provided by subsection 2 of this section, the party aggrieved may appeal said action to the court within thirty days of the director's decision**]** **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level one violation under section 374.049, RSMo. The director may also suspend, revoke, or refuse to renew any license issued by the director to any offending person for any willful violation.**

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level one violation under section 374.049, RSMo.

375.1306. GENETIC INFORMATION, PROHIBITED USES BY EMPLOYERS — PENALTY FOR VIOLATION. — 1. An employer shall not use any genetic information or genetic test results, as those terms are defined in subdivisions (3) and (4) of section 375.1300, of an employee or prospective employee to distinguish between, discriminate against, or restrict any right or benefit otherwise due or available to such employee or prospective employee. The requirements of this section shall not prohibit:

(1) Underwriting in connection with individual or group life, disability income or long-term care insurance;

(2) Any action required or permissible by law or regulation;

(3) Action taken with the written permission of an employee or prospective employee or such person's authorized representative; or

(4) The use of genetic information when such information is directly related to a person's ability to perform assigned job responsibilities.

2. [Any person who violates the provisions of this section shall be fined not more than five hundred dollars for each violation of this section] **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

375.1309. CONFIDENTIALITY OF GENETIC INFORMATION, EXCEPTIONS — PENALTY FOR VIOLATION. — 1. Any person who, in the ordinary course of business, practice of a profession or rendering of a service, creates, stores, receives or furnishes genetic information, as such term is defined in subdivision (3) of section 375.1300, shall hold such information as confidential medical records and shall not disclose such genetic information except pursuant to written authorization of the person to whom such information pertains or to that person's authorized representative. The requirements of this section shall not apply to:

(1) Statistical data compiled without reference to the identity of an individual;

(2) Health research conducted in accordance with the provisions of the federal common rule protecting the rights and welfare of research participants (45 CFR 46 and 21 CFR 50 and 56), or to health research using medical archives or databases in which the identity of individuals is protected from disclosure by coding or encryption, or by removing all identities;

(3) The release of such information pursuant to legal or regulatory process; or

(4) The release of such information for body identification.

2. [Any person who violates the provisions of this section shall be fined not more than five hundred dollars] **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

376.170. SPECIAL DEPOSITS FOR REGISTERED POLICIES AND ANNUITY BONDS. — All life insurance companies organized under the provisions of sections 376.010 to 376.670 shall deposit with the director of the insurance department, in addition to other amounts required by law to be deposited by life insurance companies before such companies are permitted to engage in the business of issuing policies of life insurance and annuity bonds, cash or securities of the kind and type in which life insurance companies are required to invest their funds under **[**section 376.300**]** **sections 376.291 to 376.307**, as same now is or as same may be hereafter amended, in an amount sufficient to equal the net value on all policies or annuity bonds hereafter issued by such companies, the amount thereof to be determined by an evaluation made in accord with the provisions of sections 376.010 to 376.670.

376.190. ADDITIONAL DEPOSITS REQUIRED. — The director shall annually cause the registered policies and annuity bonds of each company outstanding and in force to be carefully valued, and whenever the total of the actual net value of such policies and annuity bonds exceeds the market value of the securities on deposit, the company issuing such policies or annuity bonds shall immediately deposit sufficient securities of the same kind and type provided for in **[**section 376.300**]** **sections 376.291 to 376.307** to equal the net value of such policies and annuity bonds so that the market value of the securities deposited shall always be equal to the actual net value of the registered policies and annuity bonds issued by such company and still in force**[**; provided, however, that bonds and other evidences of debt having a fixed term and rate may be valued in accordance with the provisions of section 376.320**]**.

376.280. CAPITAL NECESSARY TO DO BUSINESS — HOW INVESTED. — 1. No joint stock or stock and mutual company formed under the provisions of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned in section 376.010, shall commence to do business or issue policies unless upon an actual capital of at least six hundred thousand dollars and a surplus of at least six hundred thousand dollars, nor shall any such company commence to do any business unless the full amount of capital stock and surplus named in its charter or articles of association has been paid in and invested in such securities and in accordance with all the provisions as is provided for in **[**section 376.300**]** **sections 376.291 to 376.307**, or as the same may be subsequently amended.

2. In order to continue writing new business, any stock company organized under the provisions of sections 376.010 to 376.670, or the laws of this state, for any purpose mentioned in section 376.010, shall maintain an actual capital and surplus in the amount required to commence business.

3. Any other provision of this section notwithstanding, a joint stock or stock and mutual company licensed to do business in this state on August 13, 1982, may renew its license for business specified therein until December 31, 1984, by maintaining in lieu of the capital and surplus requirements an actual capital and surplus of at least nine hundred thousand dollars.

4. No mutual company formed under the provisions of sections 376.010 to 376.670, or of the laws of this state, shall commence or continue to do any business mentioned in section 376.010 until agreement, in writing, with such company shall have been entered into by not less than one hundred persons for assurance upon their own lives, or the lives of other persons for their benefit, nor until it shall have received premiums on the same in cash, to an aggregate amount of not less than six hundred thousand dollars and in addition shall have a surplus of six hundred thousand dollars; provided further, that nothing herein contained shall be so construed as to prohibit any such company from complying with the provisions of sections 362.180 to 362.195, RSMo.

5. Any other provision of this section notwithstanding, a mutual company licensed to do business in this state on August 13, 1982, may renew its license for business specified therein until December 31, 1984, by maintaining in lieu of the surplus requirement paid-in premiums in an aggregate amount of not less than nine hundred thousand dollars.

6. Violation of any of the provisions of this section by any insurer is grounds for the revocation of its certificate of authority by the director.

376.291. APPLICABILITY AND INAPPLICABILITY. — Sections 376.291 to 376.307 shall apply only to investments and investment practices of domestic insurers organized under the provisions of this chapter. Sections 376.291 to 376.307 shall not apply to separate accounts of an insurer except to the extent that the provisions of section 376.309 so provide.

376.292. DEFINITIONS. — As used in sections 376.291 to 376.307, the following terms mean:

(1) "Acceptable collateral", as to securities lending repurchase and reverse repurchase transactions, any financial assets of a type for which, when taken as collateral by an insurer in such transactions, would permit the subject securities or repurchase agreements, as the case may be, to constitute admitted assets of the insurer under the relevant statutory accounting principles promulgated from time to time by the NAIC as adopted by the director;

(2) "Acceptable private mortgage insurance", insurance written by a private insurer protecting a mortgage lender against loss occasioned by a mortgage loan default and issued by a licensed mortgage insurance company with an SVO "1" designation or a rating issued by a nationally recognized statistical rating organization equivalent to an SVO "1" designation that covers losses to an eighty percent loan-to-value ratio;

(3) "Accident and health insurance", protection that provides payment of benefits for covered sickness or accidental injury, excluding credit insurance, disability insurance, accidental death and dismemberment insurance, and long-term care insurance;

(4) "Accident and health insurer", a licensed life or health insurer or health service corporation whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent of total premium considerations or total statutory required reserves, respectively;

(5) "Admitted assets", assets permitted to be reported as admitted assets on the statutory financial statement of the insurer most recently required to be filed with the director but excluding assets of separate accounts;

(6) "Affiliate", as to any person, another person that, directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the person;

(7) "Asset-backed security", a security or other instrument, excluding shares in a mutual fund, evidencing an interest in or the right to receive payments from, or payable from distributions on an asset, a pool of assets, or specifically divisible cash flows which are legally transferred to a trust or another special purpose bankruptcy-remote business entity on the following conditions:

(a) The trust or other business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the trust or other business entity; and

(b) The assets of the trust or other business entity consist solely of interest bearing obligations or other contractual obligations representing the right to receive payment from the cash flow from the assets. However, the existence of credit enhancements, such as letters of credit or guarantees or support features, such as swap agreements, shall not cause a security or other instrument to be ineligible as an asset-backed security;

(8) "Business entity", a sole proprietorship, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tendency, or other similar form of business organization, whether organized for-profit or not-for-profit;

(9) "Capital and surplus", the sum of the capital and surplus of the insurer required to be shown on the statutory financial statement of the insurer most recently required to be filed with the director;

(10) "Cash equivalents", short-term, highly rated, and highly liquid investments or securities readily convertible to known amounts of cash without penalty and so near maturity that they present insignificant risk of change in value. Cash equivalents include government money market mutual funds and class one money market mutual funds. For purposes of this subdivision:

(a) "Short-term" means investments with a remaining term to maturity of ninety days or less; and

(b) "Highly rated" means an investment rated "P-1" by Moody's Investors Service, Inc., or "A-1" by Standard and Poor's division of The McGraw Hill Companies, Inc., or its equivalent rating by a nationally recognized statistical rating organization recognized by the SVO;

(11) "Class one bond mutual fund", a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purpose and Procedures of the Securities Valuation Office or any successor publication;

(12) "Class one money market mutual fund", a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purpose and Procedures of the Securities Valuation Office or any successor publication;

(13) "Code", this chapter and chapters 374, 375, and 382, RSMo;

(14) "Commercial mortgage loan", a loan secured by a mortgage other than a residential mortgage loan;

(15) "Construction loan", a loan less than three years in term made for financing the cost of construction of a building or other improvement to real estate that is secured by the real estate;

(16) "Control", the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement service, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with power to vote, or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The director may determine after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination that control exists in fact, notwithstanding the absence of a presumption to that effect;

(17) "Credit tenant loan", a mortgage loan which is made primarily in reliance on the credit standing of a major tenant, structured with an assignment of the rental payments to the lender with real estate pledged as collateral in the form of a first lien;

(18) "Direct" or "directly", in connection with an obligation, the designated obligor primarily liable on the instrument representing the obligation;

(19) "Dollar roll transaction", two simultaneous transactions with different settlement dates no more than ninety-six days apart so that in the transaction with the earlier settlement date an insurer sells to a business entity, and in the other transaction the insurer is obligated to purchase, from the same business entity, substantially similar securities of the following types:

(a) Asset-backed securities issued, assumed or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or their respective successors; and

(b) Other asset-backed securities referred to in section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended;

(20) "Domestic jurisdiction", the United States, Canada, any state, any province of Canada, or any political subdivision of the foregoing;

(21) "Equity interest", any of the following that are not rated credit instruments:

(a) Common stock;

(b) Preferred stock;

(c) Trust certificate;

(d) Equity investment in an investment company other than a money market mutual fund or a class one bond mutual fund;

(e) Investment in a common trust fund of a bank regulated by a federal or state agency;

(f) An ownership interest in mineral, oil, or gas to which the rights have been separated from the underlying fee interest in the real estate where the mineral, oil, or gas are located;

(g) Instruments which are mandatorily, or at the option of the issuer, convertible to equity;

(h) Limited partnership interests and those general partnership interests authorized under subdivision (4) of section 376.294;

(i) Member interests in limited liability companies;

(j) Warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or

(k) Instruments that would be rated credit instruments except for the provisions under subdivision (47) of this section;

(22) "Foreign currency", currency other than that of a domestic jurisdiction;

(23) (a) "Foreign investment", an investment in a foreign jurisdiction or an investment in a person, real estate, or asset domiciled in a foreign jurisdiction that is substantially of the same type as those eligible for investment under this chapter other than under section 376.304. An investment shall not be deemed foreign if the issuing person, qualified primary credit source, or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction unless:

a. The issuing person is a shell business entity; and

b. The investment is not assumed, accepted, guaranteed, or insured or otherwise backed by a domestic jurisdiction, or a person that is not a shell business entity domiciled in a domestic jurisdiction;

(b) For purposes of this definition:

a. "Shell business entity" means a business entity having no economic substance except as a vehicle for owning interests in assets issued, owned, or previously owned by a person domiciled in a foreign jurisdiction;

b. "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction;

c. "Qualified primary credit score" means the credit score to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction;

(24) "Foreign jurisdiction", a jurisdiction other than a domestic jurisdiction;

(25) "Government money market mutual fund", a money market mutual fund that at all times:

(a) Invests only in obligations issued, guaranteed, or insured by the federal government of the United States or collateralized repurchase agreements composed of these obligations; and

(b) Qualifies for investment without a reserve under the Purposes and Procedures of the Securities Valuation Office or any successor publication;

(26) "Government sponsored enterprise", a:

(a) Government agency; or

(b) Corporation, limited liability company, association, partnership, joint stock company, joint venture, trust, or other entity or instrumentality organized under the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose;

(27) "Guaranteed" or "insured", in connection with an obligation acquired under this chapter, the guarantor or insurer has agreed to:

(a) Perform or insure the obligation of the obligor or purchase the obligation; or

(b) Be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity or sufficient liquidity to enable the obligor to pay the obligation in full;

(28) "High grade investment", a rated credit instruments rated "1", "2", "P1", "P2", "PSF1", or "PSF2" by the SVO;

(29) "Investment company", an investment company as defined in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1), as amended, and a person described in section 3(c) of that Act;

(30) "Investment company series", an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated;

(31) "Investment subsidiary", a subsidiary of an insurer engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer if such subsidiary limits its investment in any asset so that its investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitation or avoid any other provisions of this chapter applicable to the insurer. As used in this subdivision, the total investment insurer shall include:

(a) Direct investment by the insurer in an asset; and

(b) The insurer's proportionate share of an investment in an asset by an investment subsidiary of the insurer which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership interest in the subsidiary;

(32) "Investment strategy", the techniques and methods used by an insurer to meet its investment objectives, such as active bond portfolio management, passive bond portfolio management, interest rate anticipation, growth investing, and value investing;

(33) "Letter of credit", a clean, irrevocable, and unconditional letter of credit issued or confirmed by and payable and presentable at a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the Purposes and Procedures of the Securities Valuation Office or any successor publication. To constitute applicable collateral for the purposes of section 376.303, a letter of credit shall have an expiration date beyond the term of the subject transaction;

(34) "Limited liability company", a business organization, excluding partnerships and ordinary business corporations, organized or operating under the laws of the United States or any state thereof that limits the personal liability of investors to the equity investment of the investor in the business entity;

(35) "Lower grade investment", a rated credit instrument rated "4", "5", "6", "P4", "P5", "P6", "PSF4", "PSF5", or "PSF6" by the SVO;

(36) "Market value":

(a) As to cash and credit, the amounts thereof; and

(b) As to a security as of any date, the price for the security in that date obtained from a generally recognized source or the most recent quotation from a source, or to the extent no generally recognized source exists, the price for the security reasonably as determined by the insurer plus accrued but unpaid income thereon to the extent not included in the price as of that date;

(37) "Medium grade investment", a rated credit instrument rated "3", "P3", or "PSF3" by the SVO;

(38) "Money market mutual fund", a mutual fund that meets the conditions of 17 C.F.R. 270.2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended or renumbered;

(39) "Mortgage loan", an obligation secured by a mortgage, deed of trust, trust deed, or other consensual lien on real estate;

(40) "Multilateral development bank", an international development organization of which the United States is a member;

(41) "Mutual fund", an investment company or in the case of an investment company that is organized as a series company, an investment company series, that in either case is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

(42) "NAIC", the National Association of Insurance Commissioners;

(43) "Obligation", a bond, note, debenture, trust certificate, including an equipment trust certificate, production payment, negotiable bank certificate of deposit, bankers' acceptance, credit tenant loan, loan secured by financing net leases, and other evidence of indebtedness for the payment of money, or participations, certificates, or other evidence of an interest in any of the foregoing, whether constituting a general obligation of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment;

(44) "Person", an individual, a business entity, a multilateral development bank, or a government or quasi-government body, such as a political subdivision or a government sponsored enterprise;

(45) "Preferred stock", preferred, preference, or guaranteed stock of a business entity authorized to issue the stock that has a preference in liquidation over the common stock of the business entity;

(46) "Qualified business entity", a business entity that is:

(a) An issuer of obligations or preferred stock that are rated "1" or "2" by the SVO or an issuer of obligations, preferred stock, or derivative instruments that are rated the equivalent of "1" or "2" by the SVO or the equivalent by a nationally recognized statistical rating organization recognized by the SVO;

(b) A primary dealer in the United States government securities recognized by the Federal Reserve Bank of New York; or

(c) With respect to section 376.303, an affiliate of an entity that is a qualified business entity under paragraph (a) or (b) of this subdivision whose arrangement with the insurer is guaranteed by the affiliated entity that is a qualified business entity under paragraph (a) or (b) of this subdivision;

(47) "Rated credit instrument":

(a) An obligation or other instrument which gives its holder a contractual right to receive cash or another rated credit instrument from another entity if the instrument:

a. Is rated or required to be rated by the SVO;

b. In the case of an instrument with a maturity of three hundred ninety-seven days or less, is issued, guaranteed, or insured by an entity that is rated by or another instrument of such entity is rated by the SVO or by a nationally recognized statistical rating organization recognized by the SVO;

c. In the case of an instrument with a maturity of ninety days or less, is issued, assumed, accepted, guaranteed, or insured by a qualified bank;

d. Is a share of a class one bond mutual fund; or

e. Is a share of a money market mutual fund;

(b) "Rated credit instrument" shall not mean:

a. An instrument that is mandatorily, or at the option of the issuer, convertible to an equity interest; or

b. A security that has a par value and whose terms provide that the issuer's net obligation to repay all or part of the security's par value is determined by reference to the

performance of an equity, a commodity, a foreign currency, or an index of equities, commodities, foreign currencies, or combination thereof;

(48) "Real estate":

(a) Real property;

(b) Interests in real property, such as leaseholds, mineral, oil, and gas that have not been separated from the underlying fee interest;

(c) Improvements and fixtures located on or in real property; and

(d) The seller's equity in a contract providing for a deed of real estate;

As to a mortgage on a leasehold estate, real estate shall include the leasehold estate only if it has an unexpired term, including renewal options exercisable at the option of the lessee extending beyond the scheduled maturity date of the obligation that is secured by a mortgage on a leasehold estate by a period equal to at least twenty percent of the original term of the obligation or ten years, whichever is greater;

(49) "Repurchase transaction", a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities or substantially the same securities from the insurer at a specified price within a specified period of time or on demand;

(50) "Required liabilities", total liabilities required to be reported on the statutory financial statement of the insurer most recently required to be filed with the director;

(51) "Residential mortgage loan", a loan primarily secured by a mortgage on real estate improved with a one-to-four family residence;

(52) "Reverse repurchase transaction", a transaction in which an insurer sells substantially the same securities to a business entity and is obligated to repurchase the sold securities or substantially the same securities from the business entity at a specified price within a specified period of time or upon demand;

(53) "Secured location", the contiguous real estate owned by one person;

(54) "Securities lending transaction", a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities or substantially the same securities to the insurer within a specified period of time or upon demand;

(55) "Series company", an investment company that is organized as series company, as defined in Rule 18f-2 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

(56) "Sinking fund stock", preferred stock that:

(a) Is subject to a mandatory sinking fund or similar arrangement that will provide for the redemption or open market purchase of the entire issue over a period not longer than forty years from the date of acquisition; and

(b) Provides for mandatory sinking fund installments or open market purchases commencing not more than ten and one-half years from the date of issue with the sinking fund installments providing for the purchase or redemption on a cumulative basis commencing ten years from the date of issue of at least two and one-half percent per year of the original number of shares of that issue of preferred stock;

(57) "Special rated credit instrument", a rated credit instrument that is:

(a) Structured so that if it is held until retired by or on behalf of the issuer, its rate of return based on its purchase cost and any cash flow stream possible under the structure of the transaction may become negative due to reasons other than the credit risk associated with the issuer of the instrument; however, a rated credit instrument shall not be a special rated credit instrument under this paragraph if it is:

a. A share in a class one bond mutual fund;

b. An instrument other than an asset-backed security with payments of par value fixed as to an amount and timing or callable but in any event payable only at par value or greater and interest or dividend cash flows that are based on a fixed or variable rate determined by reference to a specified rate or index;

c. An instrument other than an asset-backed security that has a par value and is purchased at a price no greater than one hundred ten percent of par;

d. An instrument, including an asset-backed security, whose rate of return would become negative only as a result of prepayment due to casualty, condemnation, or economic obsolescence of collateral or change of law;

e. An asset-backed security that relies on collateral that meets the requirements of subparagraph b. of this paragraph and the par value of which collateral:

(i) Is not permitted to be paid sooner than one-half of the remaining term to maturity from the date of acquisition;

(ii) Is permitted to be paid prior to maturity only at a premium sufficient to provide a yield to maturity for the investment, considering the amount of prepaid and reinvestment rates at the time of early repayment, at least equal to the yield to maturity of the initial investment; or

(iii) Is permitted to be paid prior to maturity at a premium at least equal to the yield of a treasury issue of comparable remaining life; or

f. An asset-backed security that relies on cash flow from assets that are not prepayable at any time at par but is not otherwise governed by subparagraph e. of this paragraph if the asset-backed security has a par value reflecting principal payments to be received if held until retired by or on behalf of the issuer and is purchased at a price no greater than one hundred five percent of such par amount;

(b) An asset-backed security that:

a. Relies on cash flow from assets that are prepayable at par at any time;

b. Does not make payments of par that are fixed as to amount and timing; and

c. Has a negative rate of return at the time of acquisition if a prepayment threshold assumption is used with such prepayment threshold assumption defined as either:

(i) Two times the prepayment expectation reported by a recognized publicly available source as being the median of expectations contributed by broker dealers or other entities except insurers engaged in the business of selling or evaluating such securities or assets. At the insurer's election, the prepayment expectation used in this calculation shall be the prepayment expectation for pass-through securities of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or for other assets of the same type of assets that underlie the asset-backed security in a gross weighted average coupon comparable to the gross weighted average coupon of the assets that underlie the asset-backed security; or

(ii) Another prepayment threshold assumption specified by the director by regulation;

(c) For purposes of paragraph (b) of this subdivision, if the asset-backed security is purchased in combination with one or more other asset-backed securities that are supported by identical underlying collateral, the insurer may calculate the rate of return for these specific combined asset-backed securities in combination. The insurer shall maintain documentation demonstrating that such securities were acquired and are continuing to be held in combination;

(58) "State", a state, territory, or possession of the United States, District of Columbia, or the Commonwealth of Puerto Rico;

(59) "Substantially the same securities", securities that meet all criteria for substantially the same securities specified in the NAIC Accounting Practices and Procedures Manual, as amended, as adopted by the director;

(60) "Subsidiary", as to any person, an affiliate controlled by such person, directly or indirectly, through one or more intermediaries;

(61) "SVO", the Securities Valuation Office of the NAIC or any successor office established by the NAIC;

(62) "Unrestricted surplus", the amount by which total admitted assets exceed one hundred and twenty-five percent of the insurer's required liabilities.

376.293. PERMISSIBLE INVESTMENTS — WRITTEN PLAN FOR INVESTMENTS REQUIRED. — 1. (1) Insurers may acquire, hold, or invest in investments or engage in investment practices as set forth in this chapter or section 375.345, RSMo. Insurers may also acquire, hold, or invest in investments not conforming to the requirements of this section that are not otherwise prohibited by this chapter or section 375.345, RSMo, provided however, that investments not conforming to this section shall not be admitted assets. The provisions and definitions of terms of section 375.345, RSMo, related to derivative transactions shall also apply to investments under this chapter.

(2) Subject to subdivision (3) of this subsection, an insurer shall not acquire or hold an investment as an admitted asset unless at the time of acquisition:

(a) It is eligible for the payment or accrual of interest or discount, whether in cash or other forms of income or securities, eligible to receive dividends or other distributions or is otherwise income producing; or

(b) It is acquired under section 375.345, RSMo, subsection 3 of section 376.302, section 376.303 or 376.307 or under the authority of sections of the code other than sections 376.291 to 376.307.

(3) An insurer may acquire or hold as admitted assets investments that do not otherwise qualify, as provided in sections 376.291 to 376.307, if this insurer has not acquired the assets investments for the purpose of circumventing any limitations contained in sections 376.291 to 376.307 and if the insurer acquires the investments in the following circumstances and complies with the provisions of sections 376.291 to 376.307 as to the investments:

(a) As a payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;

(b) As realization of collateral for indebtedness;

(c) In connection with an otherwise qualified investment or investment practice as interest on, or a dividend, or other distribution related to the investment or investment practice or in connection with the refinancing of the investment. In each case, no additional or only nominal consideration is necessary;

(d) Under lawful and bona fide agreement of recapitalization or voluntary or involuntary reorganization in connection with an investment held by the insurer; or

(e) Under a bulk reinsurance, merger, or consolidation transaction approved by the director if the assets constitute admissible investments for the ceding, merged, or consolidated companies.

(4) An investment or portion of an investment acquired by an insurer under subdivision (3) of this subsection shall become a nonadmitted asset three years, or five years in the case of mortgage loans and real estate, from the date of its acquisition unless within that period the investment has become a qualified investment under a section of this chapter other than subdivision (3) of this subsection, but an investment acquired under an agreement of bulk reinsurance, merger, or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger, or consolidation as approved by the director. Upon application by the insurer and a showing that the nonadmission of an asset held under subdivision (3) of this subsection would materially injure the interests of the insurer, the director may extend the period of admissibility for an additional, reasonable period of time.

(5) Except as provided in subdivisions (6) and (8) of this subsection, an investment shall qualify under this chapter if on the date the insurer committed to acquire the investment or on the date of its acquisition it would have qualified under this chapter. For the purposes of determining limitations contained in this chapter, an insurer shall give appropriate recognition to any commitments to acquire investments.

(6) (a) An investment held as an admitted asset by an insurer on August 28, 2007, which qualified under this chapter, or chapter 375, RSMo, shall remain qualified as an admitted asset.

(b) Each specific transaction constituting an investment practice of the type described in this chapter that was lawfully entered into by an insurer and was in effect on August 28, 2007, shall continue to be permitted under this chapter until its expiration or termination under its terms, including any expiration or termination after an extension under its terms.

(7) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed, annual or last quarter, with the director. Solely for the purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on such statutory balance sheet for:

(a) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;

(b) Cash received in a dollar roll transaction; and

(c) The amount reported as borrowed money in such statutory balance sheet to the extent not included in paragraph (b) and this paragraph of this subdivision.

(8) An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified at the time of acquisition or a later date, in whole or in part, under any section if the relevant conditions contained in the other section are satisfied at the time of the qualification or requalification.

(9) An insurer shall maintain documentation demonstrating that investments were acquired in accordance with this chapter.

(10) An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.

(11) Notwithstanding the provisions of this chapter, the director, for good cause, may order an insurer to nonadmit, limit, dispose of, withdraw from, or discontinue an investment or investment practice. The authority of the director under this subsection is in addition to any other authority of the director.

2. (1) Within three months after August 28, 2007, an insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, and diversification of the investments and other specifications, including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall review and assess the insurer's technical investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.

(2) Investments acquired and held under this chapter and section 375.345, RSMo, shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution at least annually that it has determined whether all investments have been made in accordance with delegations, standards, limitations, and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.

(3) On no less than a quarterly basis and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:

(a) Receive and review a summary report on the insurer's investment portfolio, its investment activities, and investment practices engaged in under delegated authority in

order to determine whether the investment activity of the insurer is consistent with its written plan; and

(b) Review and revise, as appropriate, the written plan.

(4) In discharging its duties under this section, the board of directors shall require that records of any authorization or approvals, other documentation as the board may require, and reports of any action taken under authority delegated under the plan referred to in subsection 1 of this section shall be made available on a regular basis to the board of directors.

(5) In discharging their duties under this section, the directors of an insurer shall perform their duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.

(6) If an insurer does not have a board of directors, all references to the board of directors in sections 376.291 to 376.307 shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

376.294. PROHIBITED ACTS. — 1. An insurer shall not directly or indirectly:

(1) Invest in an obligation or security or make a guarantee for the benefit of or in favor of an officer or director of the insurer except as provided in section 376.295;

(2) Invest in an obligation or security, make a guarantee for the benefit of or in favor of, or make other investments in a business entity of which ten percent or more of the voting securities or equity interests are owned directly or indirectly by or for the benefit of one or more officers or directors in the insurer except under a transaction entered into in compliance with section 382.195, RSMo, or provided in section 376.295;

(3) Engage on its own behalf or through one or more affiliates in a transaction or series of transactions designed to evade the prohibitions of section 375.345, RSMo, and sections 376.291 to 376.307, or section 376.311;

(4) Invest in a partnership as a general partner, except that an insurer may make an investment as a general partner:

(a) If all other partners in the partnership are subsidiaries of the insurer or other insurance company affiliates of the insurer;

(b) For the purpose of:

a. Meeting cash calls committed to prior to August 28, 2007;

b. Completing those specific projects or activities of the partnership in which the insurer was a general partner as of August 28, 2007, that had been undertaken as of that date; or

c. Making capital improvements to property owned by the partnership on August 28, 2007, if the insurer was a general partner as of that date; or

(c) In accordance with subdivision (3) of subsection 1 of section 376.293; or

(5) Invest or lend its funds upon the security of shares of its own stock, except as authorized by other provisions of this chapter. However, no such shares shall be admitted assets of the insurer.

2. Subdivision (4) of subsection 1 of this section shall not prohibit a subsidiary or other affiliate of the insurer from becoming a general partner.

376.295. ADDITIONAL PROHIBITED ACTS — AUTHORIZED ACTIONS. — 1. (1) Except as provided in subsection 2 of this section, an insurer shall not without written approval of the director, directly or indirectly:

(a) Make a loan to or other investment in an officer or director of the insurer or a person in which the officer has any direct or indirect financial interest;

(b) Make a guarantee for the benefit of or in favor of an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or

(c) Enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest.

(2) For purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than two percent of all outstanding equity interest issued by a person that is a party to the transaction or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.

(3) This subsection shall not permit an investment that is prohibited by section 376.294.

(4) This subsection shall not apply to a transaction between an insurer and any of its subsidiaries or affiliates that is entered into in compliance with chapter 382, RSMo, other than a transaction between an insurer and its officer or director.

2. An insurer may, without the prior written approval of the director make:

(1) Policy loans in accordance with the terms of the policy or contract and section 376.306;

(2) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued or credit extended for the purpose of financing these expenses;

(3) Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request if the loans comply with the requirements of section 376.302 and the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

(4) Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than available to other customers of the entity; and

(5) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

(a) Do not have a term exceeding two years;

(b) Are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

(c) Do not exceed an amount equal to the equity of the officer in the prior residence;

(d) Are required to be fully repaid upon the earlier of the end of the two-year period or the sale of the prior residence.

376.296. VALUE OF INVESTMENTS, HOW CALCULATED. — The value or amount of an investment acquired or held or an investment practice engaged in under this chapter, unless otherwise specified in this code, shall be the value at which assets of an insurer are required to be reported for statutory accounting purposes as determined in accordance with procedures prescribed in published accounting and valuation standards of the NAIC, including the Purposes and Procedures of the Securities Valuation Office, the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the Annual Statement Instructions, or any successor valuation procedures officially adopted by the NAIC.

376.297. INVESTMENT SUBSIDIARIES NOT PERMITTED, WHEN. — 1. (1) Except as otherwise specified in this chapter, an insurer shall not acquire an investment directly or indirectly through an investment subsidiary if, as a result of and after giving effect to the investment, the insurer would hold more than three percent of its admitted assets in the investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person, or five percent of its admitted assets in investments in the voting securities of a depository institution or any company that controls the institution.

(2) The three percent limitation described in subdivision (1) of this subsection shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

(3) Asset-backed securities shall not be subject to the limitations of subdivision (1) of this subsection; however, an insurer shall not acquire an asset-backed security if as a result of and after giving effect to the investment the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity then held by the insurer would exceed three percent of its admitted assets.

2. (1) An insurer shall not acquire directly or indirectly through an investment subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of and after giving effect to the investment:

(a) The aggregate amount of medium and lower grade investments then held by the insurer would exceed twenty percent of its admitted assets;

(b) The aggregate amount of lower grade investments then held by the insurer would exceed ten percent of its admitted assets;

(c) The aggregate amount of investments rated "5" or "6" by the SVO then held by the insurer would exceed three percent of its admitted assets;

(d) The aggregate amount of investments rated "6" by the SVO then held by the insurer would exceed one percent of its admitted assets; or

(e) The aggregate amount of lower grade investments then held by the insurer that receive cash income less than the equivalent yield for treasury issues with a comparative average life would exceed one percent of its admitted assets.

(2) An insurer shall not acquire directly or indirectly through an investment subsidiary an investment under sections 376.298, 376.301, and 376.304, or counterparty exposure under subdivision (6) of subsection 2 of section 375.345, RSMo, if as a result of and after giving effect to the investment:

(a) The aggregate amount of medium and lower grade investments issued, assumed, accepted, guaranteed, or insured by any one person or as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets then held by the insurer would exceed one percent of its admitted assets; or

(b) The aggregate amount of lower grade investments issued, assumed, accepted, guaranteed, or insured by any one person or as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets then held by the insurer would exceed one-half of one percent of its admitted assets.

(3) If an insurer attains or exceeds the limit of any one rating category referred to in this subsection, the insured shall not thereby be precluded from acquiring investments in other rating categories subject to the specific and multi-category limits applicable to those investments.

3. An insurer shall not acquire directly or indirectly through an investment subsidiary a Canadian investment authorized by this chapter, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent of its admitted assets or if the aggregate amount of Canadian investments not acquired under subsection 2 of section 376.298 then held by the insurer would exceed twenty-five percent of its admitted assets. However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of this section shall be increased by the greater of:

(1) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

(2) One hundred fifteen percent of the amount of its reserves and other obligations under contracts on lives or risks resident or located in Canada.

376.298. ACQUISITION OF RATE CREDIT INSTRUMENTS, WHEN. — 1. Subject to the limitations of subsection 6 of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments issued, assumed, guaranteed or issued by:

(1) The United States; or

(2) A government sponsored enterprise of the United States if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by the United States or are otherwise backed or supported by the full faith and credit clause of the United States.

2. Subject to the limitations of subdivision (6) of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments issued, assumed, guaranteed, or insured by:

(1) Canada; or

(2) A government sponsored enterprise of Canada if the instruments of the government sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit clause of Canada.

An insurer shall not acquire an instrument under this subsection if as a result of and after giving effect to the investment the aggregate amount of investments then held by the insurer under this subsection would exceed forty percent of its admitted assets.

3. Subject to the limitations of subsection 6 of this section and subsection 2 of section 376.297, an insurer may acquire rated credit instruments excluding asset-backed securities:

(1) Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund;

(2) Issued, assumed, guaranteed, or insured by a government sponsored enterprise of the United States other than those eligible under subsection 1 of this section;

(3) Issued, assumed, guaranteed, or insured by a state if the instruments are general obligations of the state; or

(4) Issued by a multilateral development bank.

An insurer shall not acquire an instrument of any one fund, any one enterprise or entity, or any one state under this subsection if as a result of and after giving effect to the investment the aggregate amount of investments then held by the insurer in any one fund, enterprise, entity, or state under this subsection would exceed ten percent of its admitted assets.

4. Subject to the limitations of subsection 6 of this section and section 376.297, an insurer may acquire preferred stocks that are not foreign investments and that meet the requirement of rated credit instruments if as a result of and after giving effect to the investment:

(1) The aggregate amount of preferred stocks then held by the insurer under this subsection does not exceed twenty percent of its admitted assets; and

(2) The aggregate amount of preferred stocks then held by the insurer under this subsection which are not sinking fund stocks or rated "P1" or "P2" by the SVO does not exceed ten percent of its admitted assets.

5. Subject to the limitations of subsection 6 of this section and section 376.297, in addition to those investments eligible under subsections 1 to 4 of this section, an insurer may acquire rated credit instruments that are not foreign investments.

6. An insurer shall not acquire special rated credit instruments under this section if as a result of and after giving effect to the investment the aggregate amount of special rated credit instruments then held by the insurer would exceed five percent of its admitted assets. The director may by rule under section 376.305 identify certain special rated credit instruments that will be exempt from the limitation imposed by this subsection.

376.300. EQUITY INTERESTS PERMITTED, WHEN. — 1. **[**All other laws to the contrary notwithstanding, the capital, reserve and surplus of all life insurance companies of whatever kind and character organized pursuant to the laws of this state shall be invested only in the following:

(1) Bonds, notes or other evidences of indebtedness, issued, assumed or guaranteed as to principal and interest, by the United States, any state, territory or possession of the United States, the District of Columbia, or of an administration, agency, authority or instrumentality of any of the political units enumerated, and of the Dominion of Canada;

(2) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as to principal and interest by any foreign country or state not mentioned in subdivision (1) insofar as such bonds, notes or other evidences of indebtedness may be necessary or required in order to do business in such foreign state or country;

(3) Bonds, notes or other evidences of indebtedness issued, guaranteed or insured as to principal and interest by a city, county, drainage district, levee district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a city, county, state, territory or possession of the United States or of the District of Columbia, provided such obligations are authorized by law;

(4) Loans evidenced by bonds, notes or other evidences of indebtedness guaranteed or insured, but only to the extent guaranteed or insured by the United States, any state, territory or possession of the United States, the District of Columbia, or by any agency, administration, authority or instrumentality of any of the political units enumerated;

(5) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by a corporation organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, provided such bonds, notes or other evidences of indebtedness shall meet with the requirements of section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

(6) (a) Notes, equipment trust certificates or obligations which are adequately secured, or other adequately secured instruments evidencing an interest in any equipment leased or sold to a corporation, other than the life insurance company making the investment or its parent or affiliates, which qualifies under subdivision (5) of this subsection for investment in its bonds, notes, or other evidences of indebtedness, or to a common carrier, domiciled within the United States or the Dominion of Canada, with gross revenues exceeding one million dollars in the fiscal year immediately preceding purchase, which provide a right to receive determined rental, purchase, or other fixed obligatory payments for the use or purchase of such equipment and which obligatory payments are adequate to retire the obligations within twenty years from date of issue; or

(b) Notes, trust certificates, or other instruments which are adequately secured. Such notes, trust certificates, or other instruments shall be considered adequately secured for the purposes of this paragraph if a corporation or corporations which qualify under subdivision (5) of this subsection for investment in their bonds, notes, or other evidences of indebtedness, are jointly or severally obliged under a binding lease or agreement to make rental, purchase, use, or other payments for the benefit of the life insurance company making the investment which are adequate to retire the instruments according to their terms within twenty years from date of issue;

(7) Preferred or guaranteed stocks or shares of any solvent corporation created or existing under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, if all of the prior obligations including prior preferred stocks, if any, of such corporation, at the date of acquisition, are eligible as investments under any provisions of this section; and if qualified under section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

(8) Stocks or shares of insured state-chartered building and loan associations, federal savings and loan associations, if such shares are insured by the Federal Savings and Loan Insurance Corporation pursuant to the terms of Title IV of the act of the Congress of the United

States, entitled "The National Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same presently exists or may subsequently be amended, and federal home loan banks;

(9) Loans evidenced by notes or other evidences of indebtedness and secured by first mortgage liens on unencumbered real estate or unencumbered leaseholds having at least twenty-five years of unexpired term, such real estate or leaseholds to be located in the United States, any territory or possession of the United States. Such loans shall not exceed eighty percent of the fair market value of the security of the loan for insurance companies. However, insurance companies may make loans in excess of eighty percent of the fair market value of the security for the loan, but not to exceed ninety-five percent of the fair market value of the security for the loan, if that portion of the total indebtedness in excess of seventy-five percent of the value of the security for the loan is guaranteed or insured by a mortgage insurance company authorized by the director of insurance to do business in this state, and provided the mortgage insurance company is not affiliated with the entity making the loan. In addition, an insurance company may not place more than two percent of its admitted assets in loans in which the amount of the loan exceeds ninety percent of the fair market value of the security for the loan. An entity which is restricted by section 104.440, RSMo, in making investments to those authorized life insurance companies may make loans in excess of eighty percent of the fair market value of the security of the loan if that portion of the total indebtedness in excess of eighty percent of the fair market value is insured by a mortgage insurance company authorized by the director of insurance to do business in this state. Any life insurance company may sell any real estate acquired by it and take back a purchase money mortgage or deed of trust for the whole or any part of the sale price; and such percentage may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory or possession of the United States, any city within the United States having a population of one hundred thousand or more or by an administration, agency, authority or instrumentality of any such governmental units; and such percentage shall not exceed one hundred percent if such a loan is made to a corporation which qualifies pursuant to subdivision (5) for investment in its bonds, notes or other evidences of indebtedness, or if the borrower assigns to the lender a lease or leases on the real estate providing rentals payable to the borrower in amounts sufficient to repay such loan with interest in the manner specified by the note or notes evidencing such loan and executed as lessee or lessees by a corporation or corporations, which qualify pursuant to subdivision (5) for investment in its or their bonds, notes or other evidences of indebtedness. No mortgage loan upon a leasehold shall be made or acquired pursuant to this subdivision unless the terms of the mortgage loan shall provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient to completely amortize the loan within four-fifths of the term of the leasehold which is unexpired at the time the loan is made, but in no event exceeding thirty years. Real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

(a) Liens inferior to the lien securing the loan made by the life insurance company;

(b) Taxes or assessment liens not delinquent;

(c) Instruments creating or reserving mineral, oil or timber rights, rights-of-way, common or joint driveways, easements for sewers, walls or utilities;

(d) Building restrictions and other restrictive covenants; or

(e) An unassigned lease reserving rents or profits to the owner;

(10) Shares of stock, bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by an urban redevelopment corporation organized pursuant to the provisions of chapter 353, RSMo, known as the "Urban Redevelopment Corporations Law", or any amendments thereto, or any law enacted in lieu thereof; provided, that one or more such life insurance companies may, with the approval of the director of the department of insurance, subscribe to and own all of the shares of stock of any such urban redevelopment corporation; and provided further, that the aggregate investment by any such company pursuant to the terms of this subdivision shall not be in excess of five percent of the admitted assets of such company;

(11) Land situated in this state and located within an area subject to redevelopment within the meaning of the urban redevelopment corporations law, or any amendments thereto, or any law enacted in lieu thereof, which land is acquired for the purposes specified in such urban redevelopment corporations law, and any such life insurance company may erect apartments, tenements or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices and other community services reasonably incident to such projects, and such company may thereafter own, hold, rent, lease, collect or receive income, maintain and manage such land so acquired and the improvements thereon, as real estate necessary and proper for the carrying on of its legitimate business; provided, that any such life insurance company shall have power to own, hold, maintain and manage such land, and all improvements thereon, in accordance with the urban redevelopment corporations law, amendments thereto or any law enacted in lieu thereof, and shall have all the powers, duties, obligations, privileges and immunities, including any tax exemption, credits or relief, granted an urban redevelopment corporation, pursuant to the urban redevelopment corporations law, amendments thereto or any law enacted in lieu thereof, the same as if such insurance company were an urban redevelopment corporation organized pursuant to the provisions of that law; provided, that two or more such life insurance companies may, with the approval of the director of the department of insurance, enter into agreements whereby the ownership and management and control of a redevelopment project is participated in by each such company; and provided further that the aggregate investment by any such company pursuant to the terms of this subdivision shall not be in excess of five percent of the admitted assets of such company;

(12) Investments in property and processes for the development and production of solar or geothermal energy, fossil or synthetic fuels, or gasohol, whether made directly or as a participant in a general partnership, limited partnership or joint venture**] Subject to the limitations of section 376.297, an insurer may acquire equity interests in business entities organized under the laws of any domestic jurisdiction**.

2. **[**No such life insurance company shall invest in any of the foregoing securities in excess of the following percentages of the admitted assets of such company, as shown by its last annual statement preceding the date of acquisition, as filed with the director of the insurance department of the state of Missouri:

(1) Ten percent of its admitted assets in the securities issued by any one corporation or governmental unit falling pursuant to the classification set forth in subdivisions (3), (5), (6), (7) and (8) of subsection 1;

(2) One percent of its admitted assets or ten percent of its capital and surplus, whichever is greater, in any single loan on real estate pursuant to subdivision (9) of subsection 1;

(3) Ten percent of the admitted assets in the total amount of securities described in subdivision (7) of subsection 1, and no such life insurance company shall own securities described in subdivision (7) of subsection 1 of any one corporation which, in the aggregate, represents more than five percent of the total of all outstanding shares of stock of that corporation;

(4) One percent of its admitted assets in the bonds, notes or other evidences of indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1; provided, however, that in addition thereto any such life insurance company which has outstanding insurance contracts on lives of persons residing in the Dominion of Canada may invest in bonds, notes or other evidences of indebtedness of the Dominion of Canada and mentioned in subdivision (1) of subsection 1, to an amount not in excess of the total amount of its reserves and other accrued liabilities under such contracts;

(5) Five percent of its admitted assets in the notes or trust certificates secured by any equipment leased or sold to a corporation falling under the classification set forth in subdivision (5) of subsection 1 or to a common carrier domiciled in the Dominion of Canada and mentioned in subdivision (6) of subsection 1;

(6) Three percent of its admitted assets in loans evidenced by notes or other evidences of indebtedness and secured by liens on unencumbered leaseholds having at least twenty-five years of unexpired term and mentioned in subdivision (9) of subsection 1;

(7) One percent of its admitted assets, or five percent of that portion of its admitted assets in excess of two hundred fifty million dollars, whichever is greater, in energy-related investments specified in subdivision (12) of subsection 1**] An insurer shall not acquire an investment under this section if as a result of and after giving effect to the investment the aggregate amount of investments then held by the insurer under this section would exceed twenty percent of its admitted assets, or except for mutual funds, the amount of equity interests then held by the insurer that are not listed on a qualified exchange would exceed five percent of its admitted assets**.

3. **[**The term "corporation", as used in subdivisions (5) and (7) of subsection 1, shall include private corporations, joint stock associations or business trusts. In applying the earnings tests, provided herein, to any issuing, assuming or guaranteeing corporation, whether or not in legal existence during the whole of the test period, and if such corporation has during the test period acquired the assets of any other corporation or corporations by purchase, merger, consolidation or otherwise, or has been reorganized pursuant to the bankruptcy law, the earnings available for interest and dividends of such other predecessor or constituent corporation or the corporation so reorganized shall be considered as the earnings of the issuing, assuming or guaranteeing corporation**] An insurer shall not acquire under this section any investment that the insurer may acquire under section 376.302**.

4. **[**Nothing contained in this section shall be construed as repealing or affecting the provisions of sections 375.330, 375.340, and 375.355, RSMo**] An insurer shall not short sell equity interests unless the insurer covers the short sale by owning the equity interest or an unrestricted right to the equity interest exercisable within six months of the short sale**.

376.301. TANGIBLE PERSONAL PROPERTY INTERESTS PERMITTED, WHEN. — 1. **[**In addition to the investments permitted by section 376.300, the capital, reserve and surplus of all life insurance companies of whatever kind and character, organized under the laws of this state, may be invested in the following, and the same shall be eligible for deposit under section 376.170:

(1) Bonds, notes or other evidences of indebtedness issued, assumed or guaranteed as to principal and interest, by the Dominion of Canada, or any province thereof;

(2) Investments in Canada which are substantially of the same kinds, classes and investment grades or quality as those specified in subsection 1 of section 376.300**] (1) Subject to the limitations of section 376.297, an insurer may acquire tangible personal property or equity interest therein located or used wholly or in part within a domestic jurisdiction directly or indirectly through limited partnership interest and general partnership interest not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments.**

(2) Investments acquired under subdivision (1) of this subsection shall be eligible only if:

(a) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase prices of the personal property the insurer could then acquire under section 376.298; and

(b) The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for this use or purchase of the property and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property shall be adequate to return the cost of the insurer's investment in the property plus a return deemed adequate by the insurer.

2. [No life insurance company shall invest in excess of one percent of its admitted assets in any one investment under this section and the aggregate amount of all investments under this section shall not exceed ten percent of its admitted assets; provided, however, that in addition thereto any life insurance company which has outstanding insurance contracts on lives of persons residing in the Dominion of Canada may make investments under this section to an amount not in excess of the total amount of its reserves and other accrued liabilities under such contracts] **An insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price, and expenses to the extent the borrowing is without recourse to the insurer.**

3. An insurer shall not acquire an investment under this section if as a result of and after giving effect to the investment the aggregate amount of all investments then held by the insurer under this section would exceed:

(1) Two percent of its admitted assets; or

(2) One-half of one percent of its admitted assets as to any single item of tangible personal property.

4. For purposes of determining compliance with the limitations of section 376.297, investments acquired by an insurer under this section shall be aggregated with those acquired under section 376.298 and each lessee of the property under a lease referred to in this section shall be deemed the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection 2 of this section.

5. Nothing in this section shall be applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost-sharing arrangement or agreement permitted under chapter 382, RSMo.

376.302. MORTGAGE INTERESTS, MAY BE ACQUIRED, WHEN — OTHER REAL ESTATE INTERESTS. — 1. (1) Subject to the limitations of section 376.297, an insurer may acquire directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments or obligations secured by mortgages on real estate situated within a domestic jurisdiction, but a mortgage loan which is secured by other than a first lien shall not be acquired under this subdivision unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority shall not at the time of acquisition of the obligation exceed:

(a) Ninety percent of the fair market value of the real estate if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate;

(b) Eighty percent of the fair market value of the real estate if the mortgage requires immediate scheduled payment in periodic installments of principal and interest and has an amortization period of thirty years or less and periodic payments not less than annually. Each periodic payment shall be sufficient to assure that at all times:

a. The outstanding principal balance of the mortgage loan is not greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance and interest rate; and

b. There are equal payments of principal and interest with the same frequency over the same amortization period.

Mortgage loans permitted under this subsection are permitted notwithstanding the fact that they provide for a payment of the principal balance prior to the end of the period of the amortization of the loan. For residential mortgage loans, the eighty percent limitation may be increased to ninety-seven percent if acceptable private mortgage insurance has been obtained; or

(c) Seventy-five percent of the fair market value of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b) of this subdivision.

(2) For purposes of subdivision (1) of this subsection, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration or guaranteed by the Administrator of Veterans' Affairs, or their successor.

(3) Subject to the limitations of section 376.297, an insurer may acquire directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments or obligations secured by a second mortgage on real estate situated within a domestic jurisdiction other than as authorized in subdivision (1) of this subsection. The obligation held by the insurer shall be the sole second lien priority obligation and shall not at the time of acquisition of the obligation exceed seventy percent of the amount by which the fair market value of the real estate exceeds the amount outstanding under the first mortgage.

(4) A mortgage loan that is held by an insurer under subdivision (6) of subsection 1 of section 376.293 or acquired under this section and is restructured in a manner that meets the requirements of a restructured mortgage loan in accordance with the NAIC Accounting Practices and Procedures Manual or its successor publication shall continue to qualify as a mortgage loan.

(5) Subject to the limitations of section 376.297, credit lease transactions that do not qualify for investment under section 376.298 with the following characteristics shall be exempt from the provisions of subdivision (1) of this subsection:

(a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

(b) The lease payments cover or exceed the total debt service over the life of the loan;

(c) A tenant or its affiliated entity whose rated credit instruments have a SVO "1" or "2" designation or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO has a full faith and credit obligation to make the lease payments;

(d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

(e) The expenses of the real estate are passed through to the tenant, excluding exterior structural, parking and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions from cash flows derived from the lease payments cover the expense shortfall; and

(f) There is a perfected assignment of the rents due under the lease to or for the benefit of the insurer.

2. (1) An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subsection 4 of section 376.294, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate shall be income producing or intended for improvement or development for investment purposes under an existing program in which case the real estate shall be deemed to be income producing.

(2) The real estate may be subject to mortgages, liens, or other encumbrances, and the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subdivisions (2) and (3) of subsection 4 of this section.

3. An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's (which may include its affiliates) business operations, including home office, branch office, and field office operations. Such real estate acquired may:

(1) Include excess space for rent to others if the excess space at its fair market value would otherwise be a permitted investment under subsection 2 of this section and is so qualified by the insurer; or

(2) Be subject to one or more mortgage, lien, or other encumbrance, and the amount of which shall, to the extent that the obligations secured by the mortgages, liens, or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsection 4 of this section.

For purposes of this subsection, business operations shall not include that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds. An insurer may acquire real estate used for these purposes under subsection 2 of this section.

4. An insurer may not acquire an investment:

(1) Under subsection 1 of this section, if as a result of, and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under subsection 1 of this section would not exceed:

(a) One percent of its admitted assets in mortgage loans covering any one secured location;

(b) One-fourth of one percent of its admitted assets in construction loans covering any one secured location; or

(c) Two percent of its admitted assets in construction loans in the aggregate;

(2) Under subsection 2 of this section if as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment the aggregate amount of investments then held by the insurer under subsection 2 of this section plus the guarantees then outstanding would exceed:

(a) One percent of its admitted assets in one parcel or group of contiguous parcels of real estate, except that this limitation shall not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings, or other health facilities for the purposes of providing health services; or

(b) Fifteen percent of its admitted assets in the aggregate but not more than five percent of its admitted assets in real estate to be improved or developed;

(3) Under subsection 1 or 2 of this section if as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment the aggregate amount of all investments then held by the insurer under subsections 1 and 2 of this section plus the guarantees then outstanding would exceed forty-five percent of its admitted assets. However, an insurer may exceed this limitation by no more than thirty percent of its admitted assets if:

(a) This increased amount is invested only in residential mortgage loans;

(b) The insurer has no more than ten percent of its admitted assets invested in mortgage loans other than residential mortgage loans;

(c) The loan-to-value ratio of each residential mortgage loan does not exceed sixty percent at the time the mortgage loan is qualified under this increased authority and the fair market value is supported by an appraisal no more than two years old prepared by an independent appraiser;

(d) A single mortgage loan qualified under this increased authority does not exceed one-half of one percent of its admitted assets;

(e) The insurer files with the director and receives approval from the director for a plan that is designed to result in a portfolio of residential mortgage loans that is geographically diversified; and

(f) The insurer agrees to file annually with the director records that demonstrate that its portfolio of residential mortgage loans is geographically diversified in accordance with the plan.

The limitations of section 376.297 shall not apply to an insurer's acquisition of real estate under subsection 3 of this section. An insurer shall not acquire real estate under subsection 3 of this section if as a result of and after giving effect to the acquisition the aggregate amount of real estate then held by the insurer under subsection 3 of this section would exceed ten percent of its admitted assets. With the permission of the director, additional amounts of real estate may be acquired under subsection 3 of this section.

376.303. LENDING AND REPURCHASE, PERMITTED WHEN. — **[**In addition to the investments permitted by section 376.300, the capital, reserve and surplus of all life insurance companies of whatever kind and character, organized or doing business under this chapter, may be invested in bonds, notes, or other evidences of indebtedness, payable in United States dollars, issued, assumed or guaranteed as to principal and interest by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Asian Development Bank, or the African Development Bank, and such securities shall be eligible for deposit under section 376.170, provided, however, that the amount invested by any such life insurance company in such bonds, notes, or other evidences of indebtedness shall not in the aggregate exceed two percent of the admitted assets of such life insurance company.**]** **An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities subject to the following requirements:**

(1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan under subdivision (1) of subsection 2 of section 376.293 that specifies guidelines and objectives to be followed, such as:

(a) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(c) The extent to which the insurer may engage in these transactions;

(2) The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement shall require that each transaction terminate no more than one year from its inception or upon the earlier demand of the insurer. The agreement shall be with the business entity counterparty and the agreement may be with an agent acting on behalf of the insurer if the agent is a qualified business entity and if the agreement:

(a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(b) Prohibits securities lending transactions under the agreement with the agent or its affiliates;

(3) Cash received in a transaction under this section shall be invested in accordance with this chapter and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purpose. So long as the transaction remains outstanding, the insurer, its agent, or custodian shall maintain as to acceptable collateral received in a transaction under this section either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the director:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to or rights of a secured creditor to the acceptable collateral;

(4) The limitations of sections 376.297 and 376.304 shall not apply to the business entity counterparty exposure created by transactions under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities in the case of a repurchase transaction or to repurchase securities in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities then loaned, sold to, or purchased from any one business entity counterparty under this section would exceed five percent of its admitted assets. In calculating the amount sold to or repurchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or

(b) The aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this section would exceed forty percent of its admitted assets;

(5) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

376.304. ACQUISITION OF FOREIGN INVESTMENTS, WHEN. — 1. Subject to the limitations of section 376.297, an insurer may acquire foreign investments or engage in investment practices with persons of or in foreign jurisdictions of substantially the same types as those that an insurer is permitted to acquire under this chapter, other than the type permitted under section 376.311 if as a result and after giving effect to the investment:

(1) The aggregate amount of foreign investments then held by the insurer under this subsection does not exceed twenty percent of the admitted assets; and

(2) The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction does not exceed ten percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or three percent of its admitted assets as to any other foreign jurisdiction.

2. Subject to the limitations of section 376.297, an insurer may acquire investments or engage in investment practice denominated in foreign currencies whether or not they are foreign investments acquired under subsection 1 of this section or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency if as a result of and after giving effect to the transaction:

(1) The aggregate amount of investments then held by the insurer under this subsection denominated in foreign currencies does not exceed ten percent of its admitted assets; and

(2) The aggregate amount of investments then held by the insurer under this subsection denominated in the foreign currency of a single foreign jurisdiction does not exceed ten percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or three percent of its admitted assets as to any other foreign jurisdiction.

3. An investment shall not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions permitted under section 375.345, RSMo, in which the business entity counterparty agrees to exchange or grants to the insurer the option to exchange all payments made on the foreign currency denominated investment, or amounts equivalent to the payments that are or will be due to the insurer in accordance with the terms of such investment, for United States currency

during the period the contract or contracts are in effect to insulate the insurer from loss caused by diminution of the value of payments owed to the insurer due to future changes in currency exchange rates.

4. In addition to investments permitted under subsections 1 to 3 of this section, an insurer that is authorized to do business in a foreign jurisdiction and that has an outstanding insurance, annuity, or reinsurance contract on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction may acquire investments denominated in the currency of that jurisdiction subject to the limitations of section 376.297. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of section 376.297 if those investments carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the insurer under this subsection shall not exceed the greater of:

(1) The amount the insurer is required by the law of the foreign jurisdiction to invest in the foreign jurisdiction; or

(2) One hundred fifteen percent of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.

5. In addition to investments permitted under subsections 1 to 3 of this section, an insurer that is not authorized to do business in a foreign jurisdiction but which has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction may acquire foreign investments respecting that foreign jurisdiction and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of section 376.297. However, investments made under this subsection in obligations of foreign governments, their political subdivisions, and government sponsored enterprises shall not be subject to the limitations of section 376.297 if those investments carry an SVO rating of "1" or "2". The aggregate amount of investments acquired by the insurer under this subsection shall not exceed one hundred five percent of the amount of its reserves, net of reinsurance, and other obligations under the contracts on lives and risks resident or located in the foreign jurisdiction.

6. Investments acquired under this section shall be aggregated with investments of the same type made under this chapter and in a similar manner for purposes of determining compliance with the limitations, if any, contained in this chapter. Investments in obligations of foreign governments, their political subdivisions, and government sponsored enterprises of these persons, except for those exempted under subsections 4 and 5 of this section, shall be subject to the limitations of section 376.297.

376.305. RULEMAKING AUTHORITY. — **[**1. In addition to the investments permitted by section 376.300, the capital, reserve and surplus of all life insurance companies of whatever kind and character organized or doing business under sections 376.010 to 376.670, may be invested in the common stock of any solvent corporation, organized under the laws of the United States, any state, territory or possession of the United States, or the District of Columbia, or of the Dominion of Canada, or any province of the Dominion of Canada, provided the corporation's net worth as shown on its balance sheet at the end of the last fiscal year preceding purchase shall have been at least ten million dollars, and that such common stocks are registered on a national securities exchange or quoted in established over-the-counter markets, or provided that such corporation is registered and operated as an open-end regulated investment company in accordance with the Investment Company Act of 1940, as amended. Common stocks meeting the preceding qualifications shall be eligible for deposit, as provided under section 376.170.

2. No such life insurance company shall invest in excess of ten percent of its admitted assets or an amount in excess of its combined capital and surplus, whichever is the lesser, as shown by

its last annual statement preceding the date of acquisition, as filed with the director of the insurance department of the state of Missouri, in the total amount of such common stocks, nor shall such life insurance company own securities described in subdivision (7) of subsection 1 of section 376.300, and subsection 1 of this section, which, in the aggregate, represent more than five percent of the total of all outstanding shares of stock of the issuing corporation, nor shall any such life insurance company own common stock described in subsection 1 issued by any one corporation which represents more than two percent of the admitted assets of such life insurance company.**] The director may promulgate rules to implement the provisions of sections 376.291 to 376.307. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

376.306. CASH SURRENDER VALUE, LIFE INSURER MAY LEND TO POLICYHOLDER, WHEN. — A life insurer may lend to a policyholder on the security of the cash surrender value of the policyholder's policy a sum not to exceed the legal reserve that the insurer is required to maintain on the policy.

376.307. LIMITS ON ACQUISITION OF CERTAIN INVESTMENTS. — 1. **[**Notwithstanding any direct or implied prohibitions in this chapter or chapter 375, RSMo, the capital, reserve and surplus funds of all life insurance companies of whatever kind and character organized or doing business under this chapter or chapter 375, RSMo, may be invested in any investments which do not otherwise qualify under any other provision of this chapter or chapter 375, RSMo, provided, however, the investments authorized by this section are not eligible for deposit with the department of insurance and shall be subject to all the limitations set forth in subsection 2.

2. No such life insurance company shall own such investments in an amount in excess of the following limitations, to be based upon its admitted assets, capital and surplus as shown in its last annual statement filed with the director of the department of insurance of the state of Missouri:

(1) The aggregate amount of all such investments under this section shall not exceed the lesser of:

(a) Eight percent of its admitted assets; or

(b) The amount of its capital and surplus in excess of nine hundred thousand dollars; and

(2) The amount of any one such investment under this section shall not exceed one percent of its admitted assets.

3. If, subsequent to its acquisition hereunder, any such investment shall become specifically authorized or permitted under any other section contained in chapter 375 or 376, RSMo, any such company may thereafter consider such investment as held under such other applicable section and not under this section.**] Solely for the purpose of acquiring investments that exceed the quantitative limitations of sections 376.297 to 376.304, an insurer may acquire under this subsection an investment or engage in investment practices described in section 376.303, but an insurer shall not acquire an investment, or engage in investment practices described in section 376.303, under this subsection if as a result of and after giving effect to the transaction:**

(1) The aggregate amount of investments then held by an insurer under this subsection would exceed three percent of its admitted assets; or

(2) The aggregate amount of investments as to one limitation in sections 376.297 to 376.304 then held by the insurer under this subsection would exceed one percent of its admitted assets.

2. In addition to the authority provided in subsection 1 of this section, an insurer may acquire under this subsection an investment of any kind or engage in investment practices described in section 376.303 that are not specifically prohibited by this chapter without regard to the categories, conditions, standards, or other limitations of sections 376.297 to 376.304 if as a result of and after giving effect to the transaction the aggregate amount of investments then held under this subsection would not exceed the lesser of:

(1) Ten percent of its admitted assets; or

(2) Seventy-five percent of its capital and surplus.

An insurer shall not acquire any investment or engage in any investment practice under this subsection if as a result of and after giving effect to the transaction the aggregate amount of all investments in any one person then held by the insurer under this subsection would exceed three percent of its admitted assets.

3. In addition to the investments acquired under subsections 1 and 2 of this section, an insurer may acquire under this subsection an investment of any kind or engage in investment practices described in section 376.303 that are not specifically prohibited by this chapter without regard to any limitations of sections 376.297 to 376.304 if:

(1) The director grants prior approval;

(2) The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and

(3) As a result of and after giving effect to the transaction, the aggregate amount of investments then held by the insurer under this subsection does not exceed the greater of:

(a) Twenty-five percent of its capital and surplus; or

(b) One hundred percent of its capital and surplus less ten percent of its admitted assets.

4. Under this section, an insurer shall not acquire or engage in an investment practice prohibited under section 376.294 or an investment that is a derivative transaction.

376.309. SEPARATE ACCOUNT DEFINED — ESTABLISHMENT OF ACCOUNT AND SPECIAL VOTING OR CONTROL RIGHTS AUTHORIZED — APPROVED INVESTMENTS — APPROVAL OF DIRECTOR REQUIRED. — 1. As used in this section, "separate account" means an account established by an insurance company, into which any amounts paid to or held by such company under applicable contracts are credited and the assets of which, subject to the provisions of this section, may be invested in such investments as shall be authorized by a resolution adopted by such company's board of directors. The income, if any, and gains and losses, realized or unrealized, on such account shall be credited to or charged against the amounts allocated to such account without regard to other income, gains or losses of the company. If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

2. Any domestic life insurance company may, after adoption of a resolution by its board of directors, establish one or more separate accounts, and may allocate to such account or accounts any amounts paid to or held by it which are to be applied under the terms of an individual or group contract to provide benefits payable in fixed or in variable dollar amounts or in both.

3. To the extent it deems necessary to comply with any applicable federal or state act, the company may, with respect to any separate account or any portion thereof, provide for the benefit of persons having beneficial interests therein special voting and other rights and special procedures for the conduct of the business and affairs of such separate account or portion thereof, including, without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the company, to manage the business and affairs of such separate account or portion thereof; and the corporate charter of such

company shall be deemed amended to authorize the company to do so. The provisions of this section shall not affect existing laws pertaining to the voting rights of such company's policyholders.

4. The amounts allocated to any separate account and the accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies, and the investments in such separate account or accounts shall not be taken into account in applying the investment limitations, including but not limited to quantitative restrictions, otherwise applicable to the investments of the company, except that to the extent that the company's reserve liability with regard to benefits guaranteed as to principal amount and duration, and funds guaranteed as to principal amount or stated rate of interest, is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the director **[**of insurance**]** might otherwise approve, invested in accordance with the laws of this state governing the general investment account of any company. As used herein, the expression "general investment account" shall mean all of the funds, assets and investments of the company which are not allocated in a separate account. The provisions of section 376.170 relating to deposits for registered policies shall not be applicable to funds and investments allocated to separate accounts. No investment in the separate account or in the general investment account of a life insurance company shall be transferred by sale, exchange, substitution or otherwise from one account to another unless, in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made or unless the transfer, whether into or from a separate account, is made by a transfer of cash, or by a transfer of other assets having a readily determinable market value, provided that such transfer of other assets is approved by the director **[**of insurance**]** and is for assets of equivalent value. Such transfer shall be deemed approved to the extent the assets of a separate account so transferred have been paid to or are being held by the company in connection with a pension, retirement or profit-sharing plan subject to the provisions of the Internal Revenue Code, as amended, and the Employee Retirement Income Security Act of 1974, as amended. The director **[**of insurance**]** may withdraw such deemed approval by providing written notice to the company that its financial condition or past practices require such withdrawal. The director **[**of insurance**]** may approve other transfers among such accounts if the director concludes that such transfers would be equitable.

5. Unless otherwise approved by the director **[**of insurance**]**, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account at least equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in subsection 4 of this section, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

6. The director **[**of insurance**]** shall have the sole and exclusive authority to regulate the issuance and **authority to regulate the** sale of contracts under which amounts are to be allocated to one or more separate accounts as provided herein, and to issue such reasonable rules, regulations and licensing requirements as **[**he**] the director** shall deem necessary to carry out the purposes and provisions of this section; and **[**such contracts,**]** the companies **[**which**] that** issue **[**them and the agents or other persons who sell them**] such contracts** shall not be subject to **[**sections 409.101 to 409.419, RSMo, or amendments thereto, nor to the jurisdiction of the**] registration with the** commissioner of securities**. The director may, subject to the provisions of section 374.185, RSMo, consult and cooperate with the commissioner of securities in investigations arising from the offer and sale of contracts regulated under this section and may request assistance from the commissioner of securities in any proceeding arising from the offer and sale of any such contracts**.

7. No domestic life insurance company, and no other life insurance company admitted to transact business in this state, shall be authorized to deliver within this state any contract under which amounts are to be allocated to one or more separate accounts as provided herein until said company has satisfied the director **[**of insurance**]** that its condition or methods of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualifications of a company requesting authority to deliver such contracts within this state, the director **[**of insurance**]** shall consider, among other things:

(1) The history and financial condition of the company;

(2) The character, responsibility and general fitness of the officers and directors of the company; and

(3) In the case of a company other than a domestic company, whether the statutes and regulations of the jurisdiction of its incorporation provide a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.

8. An authorized life insurance company, whether domestic, foreign or alien, which issues contracts under which amounts are to be allocated to one or more separate accounts as provided herein, and which is a subsidiary of or affiliated through common management or ownership with another life insurance company authorized to do business in this state, may be deemed to have met the provisions of subsection 7 of this section if either it or the parent or affiliated company meets the requirements thereof.

9. If the contract provides for payment of benefits in variable amounts, it shall contain a statement of the essential features of the procedure to be followed by the company in determining the dollar amount of such variable benefits. Any such contract, including a group contract, and any certificate issued thereunder, shall state that such dollar amount may decrease or increase and shall contain on its first page a statement that the benefits thereunder are on a variable basis.

10. Except as otherwise provided in this section, all pertinent provisions of the insurance laws of this state shall apply to separate accounts and contracts relating thereto.

376.620. SUICIDE, EFFECT ON LIABILITY — REFUND OF PREMIUMS, WHEN. — **[**In all suits upon policies of insurance on life hereafter issued by any company doing business in this state, to a citizen of this state, it shall be no defense that the insured committed suicide, unless it shall be shown to the satisfaction of the court or jury trying the cause, that the insured contemplated suicide at the time he made his application for the policy, and any stipulation in the policy to the contrary shall be void.**] 1. Any life insurance or certificate issued or delivered in this state, may exclude or restrict liability of death as the result of suicide in the event the insured, while sane or insane, dies as a result of suicide within one year from the date of the issue of the policy or certificate. Any such exclusion or restriction shall be clearly stated in the policy or certificate.**

2. Any life insurance policy or certificate which contains any exclusion or restriction under subsection 1 of this section shall also provide that in the event the insured dies as a result of suicide within one year from the date of issue of the policy that the insurer shall promptly refund all premiums paid for coverage on such insured.

376.889. VIOLATIONS, PENALTY. — **[**In addition to any other applicable penalties, the director may require issuers violating any provision of sections 376.850 to 376.890 or regulations promulgated pursuant to sections 376.850 to 376.890 to cease marketing any Medicare supplement policy or certificate in this state which is related directly or indirectly to a violation, or may require such issuer to take such actions as are necessary to comply with the provisions of sections 376.850 to 376.890, or both**] 1. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice**

or course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.850 to 376.890 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

376.1012. FUNDS COLLECTED FROM EMPLOYERS HELD IN TRUST — REQUIREMENTS — BOARD OF TRUSTEES, ELECTED, DUTIES — ANNUAL REPORT, FILED WHEN. — Funds collected from the participating employers under multiple employer self-insured health plans shall be held in trust subject to the following requirements:

(1) A board of trustees elected by participating employers shall serve as fund managers on behalf of participants. Trustees shall be plan participants. No participating employer may be represented by more than one trustee. No trustee may represent more than one employer. A minimum of three and a maximum of seven trustees may be elected. Trustees may not receive remuneration but they may be reimbursed for actual and reasonable expenses incurred in connection with duties as trustee. A trustee may not be an agent, or broker for or an owner, officer or employee of any third-party administrator, insurance agency or insurer utilized by the plan. The trustees shall have the authority to approve applications of association members for participation in the arrangement and to contract with a licensed third-party administrator to administer the day-to-day affairs of the plan;

(2) Each trustee shall be bonded in an amount of not less than one hundred fifty thousand dollars by a licensed insurer;

(3) Investment of plan funds is subject to the same restrictions which are applicable to insurers pursuant to sections **[**376.300 to 376.310**] 376.291 to 376.307**; provided, however, that no foreign plan shall be exempt under section 376.310 from the investment laws of this state unless such plan is subject to laws in its state of domicile which are substantially similar to sections 376.1032 to 376.1045. All investments shall be managed by a bank or other investment entity licensed to operate in Missouri;

(4) Trustees, on behalf of the plan, shall file an annual report with the director of the department of insurance by March first showing the condition and affairs of the plan as of the preceding thirty-first day of December. The report shall be made on forms prescribed by the director. The report shall summarize the financial condition of the fund, itemize collections from participating employers, detail all fund expenditures and provide any additional information which the director requires. More frequent reports may be required at the discretion of the director.

376.1094. CERTIFICATE OF AUTHORITY, SUSPENSION OR REVOCATION, GROUNDS — CIVIL ACTION, WHEN. — 1. The **director shall suspend or revoke the** certificate of authority of an administrator **[**shall be suspended or revoked**]** if the director finds that the administrator:

(1) Is in an unsound financial condition;

(2) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or

(3) Has failed to satisfy any judgment rendered against it in this state within sixty days after the judgment has become final.

2. The director may, in his discretion, suspend or revoke the certificate of authority of an administrator if the director finds that the administrator or any of its officers, directors or any individual responsible for the conduct of its affairs as described in subdivision (3) of subsection 2 of section 376.1092:

(1) Has violated any lawful rule or order of the director or any provision of the insurance laws of this state;

(2) Has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to such examination, when required by the director;

(3) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

(4) Is affiliated with or under the same general management or interlocking directorate or ownership as another administrator or insurer which unlawfully transacts business in this state without having a certificate of authority;

(5) At any time fails to meet any qualification for which issuance of the certificate could have been refused had such failure then existed and been known to the department;

(6) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld;

(7) Is not competent, trustworthy, financially responsible or of good personal and business reputation, has had an insurance or administrator license denied for cause by any state or been subject to any form of administrative, civil or criminal action by any federal or state agency or court resulting in some form of discipline or sanction; or

(8) Is under suspension or revocation in another state.

3. The director may, in his discretion and without advance notice or hearing thereon, immediately suspend the certificate of any administrator if the director finds that one or more of the following circumstances exist:

(1) The administrator is insolvent or impaired;

(2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state;

(3) The financial condition or business practices of the administrator otherwise poses an imminent threat to the public health, safety or welfare of the residents of this state.

4. **[**If the director finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under sections 376.1075 to 376.1095, the director may, in lieu of such suspension or revocation, bring a civil action against the administrator in a court of competent jurisdiction. The court may impose a fine upon the administrator of not more than fifty thousand dollars, such fine to be payable to the Missouri state school fund**] If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level three violation under section 374.049, RSMo.**

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant

thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.1075 to 376.1095 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level three violation under section 374.049, RSMo.

376.1500. DEFINITIONS. — As used in sections 376.1500 to 376.1532, the following words or phrases mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Discount card", a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;

(3) "Discount medical plan", a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. The term does not include any product regulated as an insurance product, group health service product or membership in a health maintenance organization in this state or discounts provided by an insurer, group health service, or health maintenance organizations where those discounts are provided at no cost to the insured or member and are offered due to coverage with a licensed insurer, group health service, or health maintenance organization. The term does not include an arrangement where the discounts or prices are sold, rented or otherwise provided to another licensed carrier or to a self-insured or self-funded employer sponsored plan or Taft-Hartley trust;

(4) "Discount medical plan organization", means a person or an entity that, in exchange for fees, dues, charges or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. It is the person or organization that contracts with providers, provider networks or other discount medical plan organizations to offer access to medical services at a discount and determines the charge to plan members;

(5) "Health care provider", any person or entity licensed by this state to provide health care services including, but not limited to physicians, hospitals, home health agencies, pharmacies, and dentists;

(6) "Health care provider network", an entity which directly contracts with physicians and hospitals and has contractual rights to negotiate on behalf of those health care providers with a discount medical plan organization to provide medical services to members of the discount medical plan organization;

(7) "Marketer", a person or entity who markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan but does not operate a discount medical plan;

(8) "Medical services", any care, service or treatment of illness or dysfunction of, or injury to, the human body including, but not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, laboratory services, and medical equipment and supplies. The term does not include pharmaceutical supplies or prescriptions;

(9) "Member", any person who pays fees, dues, charges, or other consideration for the right to receive the purported benefits of a discount medical plan; and

(10) "Person", an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, or any other government or commercial entity.

376.1502. REQUIREMENTS FOR TRANSACTION OF BUSINESS. — 1. It is unlawful to transact business in this state as a discount medical plan organization, unless the organization is a corporation, limited liability corporation, partnership, limited liability partnership or other legal entity organized under the laws of this state or, if a foreign entity, authorized to transact business in this state, and is registered as a discount medical plan organization with the director or duly authorized by the director as an insurance company, licensed health maintenance organization, licensed group health service organization, or licensed third party administrator.

2. An individual person, employee, or agent of a registered entity described in subsection 1 of this section may also transact business in this state on behalf of such entity.

376.1504. REGISTRATION REQUIREMENTS — TERM OF REGISTRATION — RENEWAL. — 1. To register as a discount medical plan organization, an applicant shall:

(1) File with the director an application on a form approved and adopted by the director; and

(2) Pay to the director an application fee of two hundred fifty dollars.

2. A registration is valid for a one-year term and expires one year following the registration date unless it is renewed as provided in this section.

3. Before it expires, a registrant may renew the registration for an additional one-year term if the registrant:

(1) Otherwise is qualified to receive a registration;

(2) Files with the director a renewal application on a form approved and adopted by the director; and

(3) Pays a renewal fee of two hundred fifty dollars.

4. All amounts collected as registration or renewal fees shall be deposited into the insurance dedicated fund.

5. Nothing in this subsection shall require a provider who provides discounts to his or her own patients to obtain and maintain a registration as a discount medical plan organization.

376.1506. VIOLATIONS, PENALTY. — 1. If the director has a reason to believe that the discount medical plan organization is not complying with the requirements of sections 376.1500 to 376.1532, the director may examine or investigate the business and affairs of any discount medical plan organization under the authority of sections 374.190 and 374.202 to 374.207, RSMo. The director may require any discount medical plan organization or applicant to produce any records, books, files, advertising and solicitation materials, or other information and may take statements under oath to determine whether the discount medical plan organization or applicant is in violation of the law. Reasonable expenses incurred in conducting any examination shall be paid by the discount medical plan organization under sections 374.202 to 374.207, RSMo.

2. Failure by the discount medical plan organization to pay the expenses incurred under this subsection shall be grounds for denial or revocation of the discount medical plan organization's registration.

376.1508. PROCESSING FEE — CANCELLATION OF MEMBERSHIP, EFFECT OF. — 1. A discount medical plan organization may charge a reasonable one-time processing fee and a periodic charge as long as the fee is disclosed to the applicant.

2. If the member cancels the membership within the first thirty days after receipt of the discount card and other membership materials, the member shall receive a reimbursement of all periodic charges paid. The return of all periodic charges shall be made within thirty days of the date of the cancellation. If all of the periodic charges have not been paid within thirty days, interest shall be assessed and paid on the proceeds at a rate of the treasury bill rate of the preceding calendar year, plus two percentage points.

3. The right of cancellation shall be set out in the written membership materials on the first page, in ten-point type or larger.

4. If a discount medical plan organization cancels a membership for any reason other than nonpayment of charges by the member, the discount medical plan organization shall make a pro rata reimbursement of all periodic charges to the member.

376.1510. PROHIBITED ACTS. — A discount medical plan organization shall not:

(1) Use in its advertisements, marketing material, brochures, and discount cards the terms "health plan", "coverage", "copay", "copayments", "preexisting conditions", "guaranteed issue", "premium", "PPO", "preferred provider organization", or other terms in a manner that could reasonably mislead a person to believe that the discount medical plan is health insurance;

(2) Except for hospital services, have restrictions on free access to plan providers including waiting periods and notification periods;

(3) Pay providers any fees for medical services;

(4) Collect or accept money from a member for payment to a provider for specific medical services furnished or to be furnished to the member, unless the organization is licensed by the director to act as an administrator; or

(5) Except as otherwise provided in sections 376.1500 to 376.1532, as a disclaimer of any relationship between discount medical plan benefits and insurance, or as a description of an insurance product connected with a discount medical plan, use in its advertisements, marketing material, brochures, and discount cards the term "insurance".

376.1512. REQUIRED DISCLOSURES. — 1. The following disclosures, to be printed in bold and in not less than twelve-point type, shall be made in writing to any prospective member and shall appear on the first content page of any advertisements, marketing materials or brochures relating to a discount medical plan:

(1) The plan is not insurance;

(2) The plan provides discounts with certain health care providers for medical services;

(3) The plan does not make payments directly to the providers of medical services;

(4) The plan member is obligated to pay for all health care services but will receive a discount from those health care providers who have contracted with the discount plan organization; and

(5) The name and the location of the registered discount medical plan organization, including the current telephone number of the registered discount medical plan organization or other entity responsible for customer service for the plan, if different from the registered discount medical plan organization.

2. If the discount medical plan is sold, marketed, or solicited by telephone, the disclosures required by this section shall be made orally and provided in the initial written materials that describe the benefits under the discount medical plan provided to the prospective or new member.

3. Each discount card or any other plan identifier issued to a plan member shall state in bold and prominent type on the front face of the card that "THIS IS NOT INSURANCE".

376.1514. WRITTEN AGREEMENT REQUIRED, CONTENTS. — 1. All providers offering medical services to members under a discount medical plan shall provide such services pursuant to a written agreement. The agreement may be entered into directly by the health care provider or by a health care provider network to which the provider belongs if the provider network has contracts with the health care provider that allow the provider network to contract on behalf of the health care provider.

2. A health care provider agreement shall provide the following:

(1) A description of the services and products to be provided at a discount;

(2) The amount or amounts of the discounts or, alternatively, a fee schedule which reflects the health care provider's discounted rates; and

(3) A provision that the health care provider will not charge members more than the discounted rates.

3. A health care provider agreement with a health care provider network shall require that the health care provider network have written agreements with its health care providers that:

(1) Contain the terms described in this subsection;

(2) Authorize the health care provider network to contract with the discount medical plan organization on behalf of the provider; and

(3) Require the network to maintain an up-to-date list of its contracted health care providers and to provide that list on a quarterly basis to the discount medical plan organization.

4. A health care provider agreement between a discount medical plan organization and an entity that contracts with a health care provider network shall require that the entity, in its contract with the health care provider network, require the health care provider network to have written agreements with its providers that comply with subsection 3 of this section.

5. The discount medical plan organization shall maintain a copy of each active health care provider agreement into which it has entered.

376.1516. WRITTEN MEMBERSHIP MATERIALS, REQUIRED CONTENTS — FORMS TO BE SUBMITTED TO DIRECTOR. — 1. Each benefit under the discount medical plan shall be included in the written membership materials between the discount medical plan organization and the member. The written membership materials shall also include a statement notifying the members of their right to cancel under section 376.1508, and such materials shall also list all of the disclosures required by section 376.1512.

2. Upon request by the Director, any forms used by a discount medical plan organization, including written membership materials, shall be submitted to the Director.

376.1518. NET WORTH TO BE MAINTAINED, AMOUNT. — 1. Each discount medical plan organization registered pursuant to sections sections 376.1500 to 376.1532, shall at all times maintain a net worth of at least one hundred fifty thousand dollars.

2. The director may not allow a registration unless the discount medical plan organization has a net worth of at least one hundred fifty thousand dollars.

376.1520. NOTICE OF CHANGES. — Each discount medical plan organization required to be registered pursuant to this section shall provide the director at least thirty days' advance notice of any change in the discount medical plan organization's name, address, principal business address, or mailing address.

376.1522. LIST OF PROVIDERS TO BE MAINTAINED ON WEB SITE. — Each discount medical plan organization shall maintain a current list of the names and addresses of the providers with which it has contracted on a web site page, the address of which shall be prominently displayed on all its advertisements, marketing materials, brochures, and discount cards. This section applies to those providers with whom the discount medical plan organization has contracted directly, as well as those who are members of a provider network with which the discount medical plan organization has contracted.

376.1524. ADVERTISING AND MARKETING MATERIALS, APPROVAL IN WRITING REQUIRED. — 1. All advertisements, marketing materials, brochures and discount cards

used by marketers shall be approved in writing for such use by the discount medical plan organization.

2. The discount medical plan organization shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the discount medical plan.

376.1528. RULEMAKING AUTHORITY. — The director under the provisions of section 374.045, RSMo, may promulgate rules to administer and interpret the provisions of sections 376.1500 to 376.1532.

376.1530. DENIAL AND REFUSAL TO ISSUE REGISTRATIONS, WHEN. — 1. The director may deny a registration to an applicant or refuse to renew, suspend, or revoke the registration of a registrant if the applicant or registrant, or an officer, director, or employee of the applicant or registrant:

(1) Makes a material misstatement or misrepresentation in an application for registration;

(2) Fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another;

(3) Has advertised, merchandised or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading or unfair practices with respect to advertising or merchandising;

(4) In connection with the advertisement, offer, sale or administration of a health care discount program, makes any untrue statement of material fact, conceals any material fact, uses any deception or commits fraud or engages in any dishonest activity;

(5) Is not fulfilling its obligations as a discount medical plan organization;

(6) Does not have the minimum net worth as required by sections 376.1500 to 376.1532; or

(7) Violates any provision of sections 376.1500 to 376.1532, or any law or regulation of this state relating to insurance or the provision of medical care.

2. If the director has cause to believe that grounds for the suspension or revocation of a registration exist, the director shall notify the discount medical plan organization in writing, specifically stating the grounds for suspension or revocation, and shall provide opportunity for a hearing on the matter before the director.

3. When the registration of a discount medical plan organization is surrendered or revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs transacted under the registration. The organization may not engage in any further advertising, solicitation, collecting of fees, or renewal of contracts.

376.1532. VIOLATIONS, PENALTIES. — 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo. The director of insurance may also suspend or revoke the license or certificate of authority of such person for any willful violation.

2. If the director believes that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission or course of business constituting a violation

of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo.

377.100. STATEMENT OF AFFAIRS. — Every corporation doing business under sections 377.010 to 377.190 shall annually, on or before the first day of February, return to the director of the insurance department, in such manner and form as he shall prescribe, a statement of its affairs for the year ending on the preceding thirty-first day of December, and the director, in person or by deputy, shall have the power of visitation of and examination into the affairs of any such corporation, which is conferred upon him in the case of life insurance companies by the laws of this state; and all companies are hereby declared to be subject to and required to conform to the provisions of chapters 374 and 375, RSMo, and sections **[**376.300**]** **376.291** to 376.330, 376.580, 376.610 and 376.620, RSMo, and governed and controlled by all the provisions in said sections contained; provided, always, that nothing herein contained shall subject any corporation doing business under sections 377.010 to 377.190 to any other provisions or requirements of the general insurance laws of this state, except as distinctly herein set forth and provided.

377.200. STIPULATED PREMIUM COMPANIES DEFINED — PENALTY FOR UNLAWFUL USE OF TERM. — Any corporation, company or association issuing policies or certificates promising money or other benefits to a member or policyholder, or upon his decease to his legal representatives, or to beneficiaries designated by him, which money or benefit is derived from stipulated premiums collected in advance from its members or policyholders, and from interest and other accumulations and wherein the money or other benefits so realized is applied to or accumulated solely for the use and purposes of the corporation as herein specified, and for the necessary expenses of the corporation, and the prosecution and enlargement of its business, and which shall comply with all the provisions of sections 377.200 to 377.460, shall be deemed to be engaged in the business of life insurance upon the stipulated premium plan and shall be subject only to the provisions of sections 377.200 to 377.460, except that the provisions of chapters 374 and 375, RSMo, and sections **[**376.300**]** **376.291** to 376.330, 376.675, 376.770 to 376.795, 376.500 to 376.510, and 376.590 to 376.600, RSMo, shall be applicable. It shall be unlawful for any corporation, company or association not having complied with the provisions of sections 377.200 to 377.460 to use the term "stipulated premium" in its application or contracts, or to print or write the same in its policies or literature.

379.361. VIOLATIONS, PENALTIES. — 1. **[**The director may, if he finds that any insurer or filing organization has violated any provision of section 379.017 and sections 379.316 to 379.361, impose a penalty of not more than five hundred dollars for each violation, but if he finds the violation to be willful, he may impose a penalty of not more than five thousand dollars for each violation. These penalties may be in addition to any other penalty provided by law.

2. The director may suspend the license of any rating organization or insurer which fails to comply with an order of the director within the time limited by such order, or any extension thereof which the director may grant. The director shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until the order has been affirmed. The director may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension or until the order upon which such suspension is based is modified, rescinded or reversed.

3. No penalty shall be imposed or no license shall be suspended or revoked except upon a written order of the director, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation**]** **If the director determines that any insurer or filing organization has engaged, is engaging in, or**

has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo. The practice of using a rate not in effect under section 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer or filing company for any willful violation.

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of section 379.017 and sections 379.316 to 379.361 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo. The practice of using a rate not in effect under section 379.321, if caused by a single act or omission by the insurer or filing organization, is a level two violation under section 374.049, RSMo. Each act as part of a rating violation does not constitute a separate violation under section 374.049, RSMo.

379.510. PENALTY FOR VIOLATION OF ORDERS. — **[**Any person or organization who willfully violates a final order of the director under sections 379.420 to 379.510 shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed five hundred dollars for such violation**] 1. If the director determines that any person has violated a final order of the director under sections 379.420 to 379.510, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.**

2. If the director believes that a person has violated a final order of the director under sections 379.420 to 379.510, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo.

379.790. PENALTY FOR ACTING WITHOUT LEGAL AUTHORITY. — **1. It is unlawful for** any attorney **[**who shall**] to** exchange any contracts of indemnity of the kind and character specified in sections 379.650 to 379.790, or directly or indirectly solicit or negotiate any applications for same without first complying with the foregoing provisions**[**, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars; provided**].** However, **[**that**]** the director **[**of insurance**]** may, in his discretion and on such terms as he may prescribe, issue a permit for organization purposes, the permit to continue in force or be canceled at the pleasure of the director **[**of insurance**]**.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant

thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level one violation under section 374.049, RSMo.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level one violation under section 374.049, RSMo.

380.391. MISUSE OF COMPANY ASSETS FOR PRIVATE GAIN, PENALTY. — **[**No**] 1. It is unlawful for any** officer, director, member, agent or employee of any company operating under the provisions of sections 380.201 to **[**380.591 shall,**] 380.611 to** directly or indirectly, use or employ, or permit others to use or employ, any of the money, funds or securities of the company for private profit or gain**[**, and any such use shall be deemed a felony, punishable, upon conviction, by imprisonment by the department of corrections and human resources for not less than two years nor more than five years for each offense**]**.

2. Any person who willfully engages in any act, practice, omission, or course of business in violation of this section is guilty of a class D felony.

3. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, RSMo, may institute the appropriate criminal proceedings.

4. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime in any other state statute.

380.571. VIOLATIONS, PENALTIES. — 1. **[**The director may issue cease and desist orders whenever it appears to him upon competent and substantial evidence that any company operating under the provisions of sections 380.201 to 380.591 is acting in violation of those laws or any other applicable laws or any rule or regulation promulgated by the director pursuant thereto. Before any cease and desist order shall be issued, a copy of the proposed order together with an order to show cause why such cease and desist order should not be issued shall be served either personally or by certified mail on the company named therein.

2. Upon issuing any order to show cause, the director shall notify the company named therein that it is entitled to a public hearing before the director if a request for a hearing is made in writing to the director within fifteen days from the day of the service of the order to show cause why the cease and desist order should not be issued. The cease and desist order shall be issued fifteen days after the service of the order to show cause if no request for a public hearing is made as above provided.

3. Upon receipt of a request for a hearing, the director shall set a time and place for the hearing which shall not be less than ten days or more than fifteen days from the receipt of the request or as otherwise agreed upon by the parties. Notice of the time and place shall be given by the director not less than five days before the hearing.

4. At the hearing the company may be represented by counsel and shall be entitled to be advised of the nature and source of any adverse evidence procured by the director, and shall be given the opportunity to submit any relevant written or oral evidence in its behalf to show cause why the cease and desist order should not be issued.

5. At the hearing the director shall have such powers as are conferred upon him by the provisions of section 374.190, RSMo.

6. At the conclusion of the hearing, or within ten days thereafter, the director shall issue the cease and desist order as proposed or as subsequently modified, or notify the company that no order will be issued.

7. The circuit court of Cole County shall have jurisdiction to review any cease and desist order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any company against whom an order is issued fails to request judicial review, or if, after judicial review, the director's cease and desist order is upheld, the order shall become final.

8. If any company willfully violates any provision of any cease and desist order of the director after it becomes final, it may be penalized by the director by a fine of not more than one thousand dollars.

9. The director of insurance may in addition to a monetary fine, suspend or revoke the certificate of authority of any company violating a cease and desist order**] If the director determines that any person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo, except a violation of section 380.391 is a level four violation under section 374.049, RSMo. The director may also suspend or revoke the certificate of authority of such person for any willful violation.**

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 380.201 to 380.611 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level two violation under section 374.049, RSMo, except a violation of section 380.391 is a level four violation under section 374.049, RSMo.

381.011. CITATION OF LAW — PURPOSE STATEMENT. — 1. Sections 381.011 to 381.412 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.405 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the laws of this state relating to insurance and insurance companies generally shall apply to title insurance, title insurers, and title agents.

381.015. TITLE INSURANCE COMMITMENT, REQUIRED STATEMENT, WHEN — LENDER'S INSURANCE POLICY WITHOUT OWNER'S TITLE INSURANCE, NOTICE GIVEN WHEN, CONTENTS, RETENTION — PENALTY FOR VIOLATION. — 1. As used in sections 381.011 to 381.412, the term "title insurance commitment" or "commitment" means a preliminary report, commitment, or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title.

2. A title insurer, title agency, or title agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part

of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner, within sixty days of closing and at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. A violation of any provision under this section is a level one violation under section 374.049, RSMo.

381.018. WRITTEN CONTRACT WITH TITLE INSURER REQUIRED FOR COMMITMENT OR POLICY ISSUANCE, STATEMENT OF FINANCIAL CONDITION WHEN, CONTENTS, REVIEW AND NOTIFICATION REQUIREMENTS, INVENTORY, PROOF OF LICENSURE, PENALTY FOR VIOLATION. — 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties.

2. The title insurer shall maintain an inventory of all policy numbers allocated to each title agency or title agent not affiliated with a title agency.

3. The title insurer shall have on file proof that the title agency or title agent is licensed by this state at the time a written contract is entered into or before it becomes effective.

4. The title insurer shall establish the underwriting guidelines and, where applicable, limitations on title claims settlement authority to be incorporated into contracts with its title agencies and title agents not affiliated with a title agency.

5. If a title insurer terminates its contract with a title agency licensed under this chapter, the insurer shall, within seven days of the termination, notify the director of the reasons for termination, including any information that is required to be reported under subsection 5 of section 375.022, RSMo.

6. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.019. REQUIRED DISCLOSURES. — 1. A title insurer, title agency or title agent participating in a settlement or closing of a residential real estate transaction shall provide clear, conspicuous, and distinct disclosure of premiums and charges. The director shall adopt rules not in conflict with provisions of the federal Real Estate Settlement Procedures Act, as amended, under section 381.042 to implement disclosure of the following:

(1) Premium;

(2) Abstract or title search and examination fee and any other associated charges or fees; and

(3) Settlement, escrow, or closing fees.

2. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.022. TITLE INSURER, AGENCY OR AGENT NOT AFFILIATED WITH A TITLE AGENCY MAY OPERATE AS AN ESCROW, SECURITY, SETTLEMENT OR CLOSING AGENT, WHEN, PENALTY FOR VIOLATIONS. — 1. As used in sections 381.011 to 381.412, the following terms mean:

(1) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent, or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(2) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(3) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement under which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

2. A title insurer, title agency, or title agent not affiliated with a title agency may operate as an escrow, security, settlement, or closing agent, provided that all funds deposited with the title insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions in connection with any escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the second business day after receipt, in accordance with the following requirements:

(1) The funds regulated under this section shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit, or closing in the records of the title insurer, title agency, or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual written instructions or agreements under which the funds were accepted; and

(2) The funds shall be applied only in accordance with the terms of the individual written instructions or agreements under which the funds were accepted.

3. It is unlawful for any person to:

(1) Commingle personal or any other moneys with escrow funds regulated under this section;

(2) Use such escrow funds to pay or indemnify against debts of the title insurance agent or of any other person;

(3) Use such escrow funds for any purpose other than to fulfill the terms of the individual written escrow instructions after the necessary conditions of the written escrow instructions have been met;

(4) Disburse any funds held in an escrow account unless the disbursement is made under a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or under an order of a court of competent jurisdiction; or

(5) Disburse any funds held in a security deposit account unless the disbursement is made under a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency, or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require by rule or order.

4. Notwithstanding the provisions of subsection 3 of this section, any bank credits, bank services, interest, or similar consideration received on funds deposited in connection with any escrow, settlement, security deposit, or closing may be retained by the title insurer, title agency, or title agent not affiliated with a title agency as compensation for

administration of the escrow or security deposit, unless the specific written instructions for the funds or a governing statute provides otherwise.

5. Notwithstanding the provisions of subsection 2 of this section, a title insurer, title agency, or title agent is not authorized to provide such services as an escrow, security, settlement, or closing agent in a residential real estate transaction unless as part of the same transaction the title insurer, title agency, or title agent issues a commitment, binder, or title insurance policy and closing protection letters have been issued protecting the buyer's and the seller's interests, or the title agency or agent has given written notice to the affected person in a title insurance commitment or on a form approved by rule promulgated by the director that the person's interest in the closing or settlement is not protected by the title insurer, title agency, or title agent.

6. It is unlawful for any title agency or agent to engage in the handling of an escrow, settlement or closing, of a residential real estate transaction unless the escrow handling, settlement or closing is conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy or a closing protection letter, or prior to the receipt of any funds, the title agency or agent clearly discloses to the seller, buyer or lender involved in such escrow, settlement or closing, that no title insurer is providing any protection for closing or settlement funds received by the title agency or agent.

7. A violation of any provision under this section is a level three violation under section 374.049, RSMo.

381.023. UNDERWRITING CLAIMS AND ESCROW PRACTICES, REVIEW OF, REQUIRED WHEN — STANDARDS FOR REVIEW. — 1. A title insurer shall, at least annually, conduct an onsite review of the underwriting, claims, and escrow practices of the title agency or agent with which it has a contract. If the title agency or agent does not maintain separate fiduciary trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title agency or agent.

2. Each title insurer authorized to do business in Missouri shall adopt and utilize the following standards and procedures for the onsite review of title agencies and agents. Onsite review documentation, work papers, summaries, and reports shall be maintained by each title insurer for a period of at least four years and shall be made available to the director for examination upon request. A report shall be prepared by the title insurer at the completion of the onsite review setting forth the title insurer's findings. Onsite review findings shall include, but not be limited to, the following:

(1) A review of contracts between the title insurer and the title agency or agent;

(2) A confirmation that the title agency or agent has prepared an annual statement of financial condition of the title agency or agent, certified by the title insurance agent or designated agent of the title agency under oath or by affirmation as being a true and accurate representation of financial condition;

(3) A review of policies and practices related to conflicts of interest affiliated business arrangements, and regulatory compliance;

(4) Reconciliation of orders with commitments, title searches, title policies, and collection of premiums;

(5) A review of the agent's procedures for tracking issued commitments;

(6) A review of the practices to cancel commitments on transactions that do not close;

(7) A review of the procedures for follow-up after closing to track status of outstanding conditions required for timely issuance of policies;

(8) A review of the procedures for voiding policies;

(9) A review of the tracking of open escrow, security, settlement or closing files;

(10) A review of issued policy reports to the title insurer by the title agency or agent;

(11) A review of any files awaiting policy issuance that includes a determination of the average length of time between closing and the issuance of the title policy; and

(12) A review of a three-way reconciliation of bank balance, book balance and escrow trial balance for each individual escrow bank account.

3. If the title agency or agent is an agency or agent for two or more title insurers, the title insurers may cooperate in complying with the requirements of this section and shall be exempt from liability for sharing findings with other title insurers represented by the agency or agent.

4. The title insurer shall provide a copy of the report of each such review it performs to the director. The director shall promulgate rules setting forth the minimum threshold level at which a review would be required, the standards thereof and the form of report required.

5. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.024. DENIAL OF ACCESS AND FAILURE TO COOPERATE PROHIBITED, PENALTY. — 1. It is unlawful for any title agency or title agent not affiliated with an agency to unreasonably deny access or fail to cooperate with its underwriters in the title insurers' reviews of the agency's or agent's escrow, settlement, closing and security deposit accounts.

2. It is unlawful for any title agency or title agent not affiliated with an agency, appointed by two or more title insurers, to deny any of the title insurers access to the fiduciary trust accounts in connection with providing escrow or closing settlement services, and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title agency or title agent.

3. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.025. CONSIDERATION FOR REFERRALS, WHEN, PENALTY. — 1. As used in this section, the term "county" or "counties" includes any city not within a county.

2. Nothing in sections 381.011 to 381.412 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies, or two or more title agents or agencies, provided such division of premiums and charges does not constitute a violation of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2601, et seq., as amended.

3. A violation of any provision under section 381.141 is a level three violation under section 374.049, RSMo.

4. If the director fails to initiate a proceeding to enforce section 381.141 within forty-five days following receipt of written notice of such violation, any title insurer, title agency, or title agent doing business in the same county may maintain an action for injunctive relief against a title insurer, title agency, or title agent violating any provision of this section. In any action under this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

381.026. RECORDING OF DEEDS AND SECURITY INSTRUMENTS. — 1. The settlement agent shall present for recording all deeds and security instruments for real estate closings handled by it within five business days after completion of all conditions precedent thereto unless otherwise instructed by all of the parties to the transaction.

2. Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction in which a title insurer, title agency, or title agent not affiliated with a title agency is the settlement agent, provided all parties to whom payment will become due upon such recording consent thereto in writing.

381.029. AFFILIATED BUSINESS — DEFINITIONS — REQUIREMENTS — RULES — VIOLATIONS.— 1. As used in this section, the following terms mean:

(1) "Affiliate", a specific person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(2) "Affiliated business", any portion of a title insurance agency's business written in this state that was referred to it by a producer of title insurance business or by an associate of the producer, where the producer or associate, or both, have a financial interest in the title agency;

(3) "Associate", any:

(a) Business organized for profit in which a producer of title business is a director, officer, partner, employee, or an owner of a financial interest;

(b) Employee of a producer of title business;

(c) Franchisor or franchisee of a producer of title business;

(d) Spouse, parent, or child of a producer of title insurance business who is a natural person;

(e) Person, other than a natural person, that controls, is controlled by, or is under common control with, a producer of title business;

(f) Person with whom a producer of title insurance business or any associate of the producer has an agreement, arrangement, or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to that producer or associate for the referral of business;

(4) "Control", including the terms "controlling", "controlled by", and "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by showing that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(5) "Referral", the directing or the exercising of any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.

2. Whenever the business to be written constitutes affiliated business, prior to commencing the transaction, the title insurer, title agency, or title agent shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title insurer, title agency, or agent.

3. The director shall establish rules for use by all title agencies in the recording and reporting of the agency's owners and of the agency's ownership interests in other persons or businesses and of material transactions between the parties.

4. The director shall require each title insurer, agency, and agent to file on forms prescribed by the director reports setting forth the names and addresses of those persons, if any, that have a financial interest in the insurer, agency, or agent and who the insurer, agency, or agent knows or has reason to believe are producers of title insurance business or associates of producers, except the duty to report shall not include shareholders of record of any publicly traded insurer.

5. Nothing in this chapter shall be construed as prohibiting affiliated business arrangements in the provision of title insurance business so long as:

(1) The title insurer, title agency, title agent, or party making a referral constituting affiliated business, at or prior to the time of the referral, discloses the arrangement and, in connection with the referral, provides the person being referred with a written estimate of the charge or range of charges likely to be assessed and otherwise complies with the disclosure obligations of this section;

(2) The person being referred is not required to use a specified title insurer, agency, or agent; and

(3) The only thing of value that is received by the title insurer, agency, agent, or party making the referral, other than payments otherwise permitted, is a return on an ownership interest. For purposes of this subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), as amended.

6. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.038. RETENTION OF RECORDS REQUIRED, LIMITATION, PENALTY FOR VIOLATION. — 1. For the purposes of this section, the term "direct operations" means that portion of a title insurer's operations which are attributable to business written by a bona fide employee.

2. Records relating to escrow and security deposits shall be preserved and retained by a title insurer engaged in direct operations, title agency, and title agent for as long as appropriate to the circumstances but, in no event less than seven years after the escrow or security deposit account has been closed.

3. A title agent and a title agency shall remit premiums to the title insurer under the term of its agency contract, but in no event later than within sixty days of receiving an invoice from the title insurer. A title insurer, title agency, or title agent shall promptly issue each title insurance policy within forty-five days after compliance with the requirements of the commitment for insurance, unless special circumstances as defined by rule delay the issuance.

4. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section, and shall not apply to a reinsurer.

5. A violation of any provision under this section is a level two violation under section 374.049, RSMo.

381.042. RULES, AUTHORITY, PROCEDURE. — 1. The director under the authority in section 374.045, RSMo, may issue rules, regulations, and orders necessary to carry out the provisions of this chapter.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be invalid and void.

381.045. VIOLATIONS, PENALTIES. — 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, omission or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, or a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. The director may also suspend or

revoke the license of a producer under section 375.141, RSMo, or the certificate of authority of any title insurer as authorized under section 374.047, RSMo, for any such willful violation.

2. If the director believes that a person has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, omission or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation in this chapter or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo.

3. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the laws relating to the business of insurance.

4. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants, and creditors.

381.048. COURT ACTIONS AUTHORIZED, WHEN. — 1. The director may bring an action against any title insurer, title agency, title agent, or any director, officer, agent, employee, trustee, or affiliate of a title insurer, title agency, or title agent in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.

2. A violation of any provision under the federal Real Estate Settlement Procedures Act, as amended, is a level two violation under section 374.049, RSMo.

381.052. PERSONS AUTHORIZED TO CONDUCT TITLE INSURANCE BUSINESS. — No person other than a domestic, foreign, or non-United States title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

381.055. POWERS OF TITLE INSURER. — Subject to the exceptions and restrictions contained in this chapter, a title insurer shall have the power to:

(1) Do only title insurance business; and

(2) Reinsure title insurance policies.

381.058. LICENSE REQUIRED FOR INSURER TO TRANSACT BUSINESS OF TITLE INSURANCE, EXCLUSIVE TO OTHER TYPES OF INSURANCE BUSINESS — LIMITATIONS — CLOSING OR SETTLEMENT PROTECTION AUTHORIZED. — 1. No insurer that transacts any class, type, or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten, or issued by any insurer transacting or licensed to transact any other class, type, or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section or anything else to the contrary in sections 381.011 to 381.405, a title insurer is expressly authorized to issue closing or settlement protection letters (and to collect a fee for such issuance) in all transactions where its title insurance policies are issued and where its issuing agent or agency is performing settlement services and shall do so in favor of and upon request by the applicable buyer, lender, or seller in such transaction. Such closing or settlement protection letter form shall be filed with the director under section 381.085 and shall conform to the terms of coverage and form of instrument as required by rule of the director and shall indemnify a buyer, lender, or seller solely against losses not to exceed the amount of the settlement funds only because of the following acts of the title insurer's named issuing title agency or title agent:

(a) Acts of theft of settlement funds or fraud with regard to settlement funds; and

(b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage.

(2) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a lessee or purchaser of an interest in land, a borrower, or a lender secured by a mortgage, including any other security instrument, of an interest in land shall be filed as a rate with the director.

(3) The rate for issuance of a closing or settlement protection letter in a residential real estate transaction indemnifying a seller of an interest in land shall be filed as a separate rate with the director.

(4) Such filed rate shall not be excessive or inadequate. The entire rate for the closing or settlement protection letter shall be retained by the title insurer.

(5) Except as provided under this section or section 381.403, a title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.

381.062. ESTABLISHMENT AND MAINTENANCE OF MINIMUM PAID-IN CAPITAL AND PAID-IN INITIAL SURPLUS NECESSARY FOR INSURANCE BUSINESS LICENSE. — Any title insurer authorized to do an insurance business in this state, shall establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, surplus of at least four hundred thousand dollars. Beginning January 1, 2013, any title insurer authorized to do an insurance business in this state, shall establish and maintain a minimum paid-in capital of not less than eight hundred thousand dollars and, in addition, surplus of at least eight hundred thousand dollars.

381.065. NET RETAINED LIABILITY LIMITS, MAXIMUM AMOUNT — REINSURANCE ALLOWED — WAIVER BY DIRECTOR OF RISK, WHEN. — 1. The net retained liability of a title insurer for a single risk in regard to real property located in this state, or in regard to a title insurance policy issued in this state and insuring personal property, whether assumed directly or as reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve less the company's investment in title plants, all as shown in the most recent annual statement of the insurer on file with the director.

2. For purposes of this chapter:

(1) A single risk shall be the insured amount of any title insurance policy, except that, where two or more title insurance policies are issued simultaneously covering different estates in the same property, a single risk shall be the sum of the insured amounts of all the title insurance policies; and

(2) A policy under which a claim payment reduces the amount of insurance under one or more other title insurance policies shall be included in computing the single risk sum only to the extent that its amount exceeds the aggregate amount of the policy or policies whose amount of insurance is reduced.

3. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on real property located in this state, or on policies issued in this state and insuring personal property, may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least one million six hundred thousand dollars.

4. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.

381.068. INVESTMENT IN TITLE PLANT, AMOUNT RESTRICTED, CONSIDERED ASSET. — In determining the financial condition of a title insurer doing business under this chapter, the general investment provisions of sections 379.080 to 379.082, RSMo, shall apply; except that, an investment in a title plant or plants in an amount equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate amount of the investment shall not exceed twenty percent of surplus to policyholders, as shown on the most recent annual statement of the title insurer on file with the director.

381.072. RESERVE REQUIREMENTS, RESERVE TO COVER ALL KNOWN CLAIMS — UNEARNED PREMIUM RESERVE, AMOUNT, ACTUARIAL CERTIFICATION REQUIRED, SUPPLEMENTAL RESERVE, AMOUNT, DEADLINE. — 1. In determining the financial condition of a title insurer doing business under this chapter, the general provisions of the laws regulating the business of insurance requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and maintain:

(1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims, and allocated loss adjustment expenses arising under title insurance policies for which the title insurer may be liable, and for which the insurer has discovered or received notice by or on behalf of the insured or escrow or security depositor;

(b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim;

(c) Reserves required under this section may be revised from time to time and shall be redetermined at least once each year;

(2) A statutory or unearned premium reserve established and maintained as follows:

(a) A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements;

(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

a. The amount of the unearned premium reserve on January 1, 2008;

b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after January 1, 2008; and

c. Unearned premium for closing protection letters;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire

amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before January 1, 2008, shall be released in accordance with the law in effect immediately before January 1, 2008;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required under section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed under this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to this subdivision.

2. A foreign or alien title insurer licensed to transact title insurance business in this state shall maintain at least the same reserves on title insurance policies issued on properties located in this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.

381.075. ADDITIONAL INSURANCE LAWS APPLICABLE TO TITLE INSURERS, INSURER'S SUPERVISION, REHABILITATION AND LIQUIDATION ACT, EXCEPTIONS — LIQUIDATION OR INSOLVENCY, TREATMENT OF SECURITY AND ESCROW FUNDS, FILING OF CLAIMS, CANCELLATION OF POLICIES, PAYMENT OF FULLY EARNED PREMIUMS. — 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to this chapter, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds, or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.

381.085. FORMS, DIRECTOR TO APPROVE BEFORE USE — CONTENTS CONCERNING COVERAGE OF POLICY, WHEN INCLUDED — DISAPPROVAL BY DIRECTOR, PROCEDURE. — 1. As used in sections 381.011 to 381.412, the terms "search", "search of the public records", or "search of title", mean a search of those records established by the laws of

this state for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

2. A title insurer shall not deliver or issue for delivery or permit any of its authorized title agencies or title agents to deliver in this state, any standard form providing coverage, in connection with title insurance written, unless the standard form has been filed with the director thirty days prior to use.

3. Forms covered by this section shall include:

(1) Title insurance policies, including standard form endorsements;

(2) Title insurance commitments issued prior to the issuance of a title insurance policy; and

(3) Closing or settlement protection letters.

4. Any term or condition related to an insurance coverage provided by a title insurance policy or any exception to the coverage, except exceptions ascertained from, or affirmative coverages offered as a result of, a search and examination of records relating to a title or inspection or survey of a property to be insured, may only be included in the policy after the term, condition or exception has been filed with the director as herein provided.

5. The director shall review such form, term, condition, or exception within thirty days. If within this time the director believes the form, term, condition, or exception is not in compliance with the insurance laws of this state or does not contain such words, phraseology, conditions, and provisions which are specific, certain, and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policies, the director may schedule a hearing to be held within sixty days and at such hearing receive evidence and suggestions of law on the matter.

6. If the director determines after a hearing that a form, term, condition, or exception shall be disapproved, the director shall issue an order disapproving the form, term, condition, or exception in a record and with findings of fact and conclusions of law in accordance with the provisions of chapter 536, RSMo. A final order may not be issued unless the director specifies the provisions of law that have not been complied with or the words, phraseology, conditions, or provisions which are not specific, certain and unambiguous and reasonably adequate to meet the needed requirement of those insured under such policies. A final order of disapproval is subject to judicial review under the provisions of chapter 536, RSMo. During the pending of any proceeding under this section, all such forms may be used, but this provision shall not deprive the director or department of any other enforcement power over such forms that may be otherwise provided by law.

7. The failure of the director to seek disapproval does not constitute an approval or endorsement of the form, term, condition, or exception by the director. It is unlawful to make any representation that the director has approved a form, term, condition, or exception filed under this section.

381.112. PREMIUM TAX, PREMIUM INCOME DEFINED. — For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount within the definition of "premium".

381.115. LICENSING REQUIRED FOR TITLE AGENCIES AND TITLE AGENTS, EXCEPTIONS, NAME AND INFORMATION REQUEST REQUIREMENT FOR TITLE AGENCY — DEADLINE FOR COMPLIANCE WITH THIS SECTION — DELEGATION OF TITLE SEARCHES TO THIRD PARTY, RULES — VIOLATIONS, PENALTY. — 1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent;

2. It is unlawful for any person to transact business as:

(1) A title agency, unless the person is a licensed business entity insurance producer under subsection 2 of section 375.015, RSMo; or

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015, RSMo, or is exempt from licensure under subsection 3 of this section.

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not materially perform or supervise others who perform any of the following:

(1) Sell, solicit, or negotiate a title insurance policy or closing protection letter;

(2) Calculate premiums for a title insurance policy or closing protection letter;

(3) Determine insurability;

(4) Establish, calculate, or negotiate title charges;

(5) Conduct title search or examinations;

(6) Execute title insurance policies, commitments, binders or endorsements; or

(7) Handle escrows, settlements, or closings.

4. It is unlawful for any title insurer to contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is licensed as required in this section.

5. The director shall adopt rules, regulations, or requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents and employees of title insurers, or title agencies. Such rules, regulations, or requirements shall, until at least January 1, 2010, permit either provisional licensure or waiver of licensure for employees newly performing functions described in subsection 3 of this section, while under the direct supervision of a licensed insurance producer during the first six months of such employee's initial employment. This subsection is not intended to require licensure of persons performing a clerical function under the direct supervision and direction of a licensed insurance producer.

6. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer, insurance company, or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business, any information the title insurer requests in order to comply with reporting requirements of the director.

7. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

8. If the title insurer, title agency, or title agent delegates the title search to a third party, such as an abstract company, the insurer, agency, or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the insurer, agency, or agent with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period.

9. A violation of any provision under this section is a level three violation under section 374.049, RSMo.

381.118. EXAMINATION REQUIRED — EDUCATION REQUIREMENTS, EXEMPTIONS — APPROVED COURSES AND PROGRAMS — TEACHING CREDIT — CREDITS MAY BE CARRIED FORWARD — EXTENSIONS AND WAIVERS — CERTIFICATION TO DIRECTOR OF COMPLETION — NONRESIDENTS — RULES — FUNDS, DEPOSITING AND USE — FEES FOR LICENSE RENEWAL. — 1. Each title agency shall designate an individual as a qualified principal, who as a condition of licensure, shall successfully pass an examination developed by the producer advisory board established by section 375.019, RSMo, and approved by the director. Each title agent shall successfully pass an examination developed by the producer advisory board and approved by the director. Upon request by a title agency

or agent and for good cause, the director, by order, may waive the requirements of this subsection. The examination requirement in this subsection shall be waived for all title agents and qualified principals who are licensed in this state as of January 1, 2008.

2. Each title agent licensed to sell title insurance in this state, unless exempt under subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January 1, 2008.

3. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) A real property law or title insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of real property or title insurance law at such institution;

(2) A course or program of instruction or seminar approved by the director developed or sponsored by any authorized insurer, recognized agents' association, title insurance trade association, or approved private provider. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

4. A person teaching any approved course of instruction or lecturing at any approved seminar without compensation shall qualify for one and one-half times the number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program, but the credit may be credited no more than once a year.

5. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program, or seminar was held.

6. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

7. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person.

8. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

9. Rules necessary to implement and administer this section shall be promulgated by the director, including, but not limited to, rules regarding the following:

(1) The producer advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course under this section shall pay to the director a filing fee of fifty dollars per course, except

that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local agents' groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval.

10. All funds received under the provisions of this section shall be transmitted by the director to the department of revenue for deposit in the state treasury to the credit of the insurance dedicated fund. All expenditures required by this section shall be paid from funds appropriated from the insurance dedicated fund by the general assembly.

11. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification required by this section.

12. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2008, shall be invalid and void.

381.122. DIRECTOR AUTHORIZED TO INSPECT BOOKS AND RECORDS. — The director may during normal business hours examine, audit and inspect any and all books and records maintained by a title insurer, title agency, or title agent under this chapter.

381.161. CONTRACT OF TITLE INSURANCE THROUGH SPECIFIC AGENT, AGENCY, OR INSURER PROHIBITED. — 1. No producer or other person, except the person paying the premium for the title insurance, shall require, directly or indirectly, or through any trustee, director, officer, agent, employee, or affiliate, as a condition, agreement, or understanding to selling or furnishing any other person any loan, or extension thereof, credit, sale, property, contract, lease or service, that such other person shall place, any contract of title insurance of any kind through any particular title agent, agency, or title insurer. No title agent, agency, or title insurer shall knowingly participate in any such prohibited plan or transaction. No person shall fix a price charged for such thing or service, or discount from or rebate upon price, on the condition, agreement, or understanding that any title insurance is to be obtained through a particular agent, agency, or title insurer.

2. **[**Any person who violates the provisions of this section, or any title insurer, title agent, or agency who accepts an order for title insurance knowing that it is in violation of the provision of this section shall, in addition to any other action which may be taken by the director, be subject to a fine in an amount equal to five times the premium for the title insurance.**] A violation of any provision under this section is a level three violation under section 374.049, RSMo.**

381.410. DEFINITIONS. — As used in this section and section 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, financial and professional regulation, unless the settlement agent's primary regulator is the division of finance. When the settlement agent is regulated by such division, that division shall have jurisdiction over this section and section 381.412;

(4) "Financial institution":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

(b) A mortgage loan company or mortgage banker doing business under the laws of this state or the United States which is subject to licensing, supervision, or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans' Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer, if their principal place of business is in Missouri or a state which is contiguous to Missouri;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339, RSMo.

381.412. SETTLEMENT AGENTS, ACCEPTING FUNDS, EXEMPTION — TITLE INSURER, DEPOSIT OF FUNDS — VIOLATION, FINE. — 1. A settlement agent who accepts funds for closing a sale of an interest in real estate shall require a buyer, seller, or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check shall be exempt from the provisions of this section if drawn on:

(1) An escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo; or

(2) An escrow account of a title insurer or title insurance agency licensed to do business in Missouri; or

(3) An agency of the United States of America, the state of Missouri, or any county or municipality of the state of Missouri; or

(4) An account by a financial institution.

2. It is unlawful for any title insurer, title agency, or title agent, as defined in section 381.009, to make any payment, disbursement or withdrawal from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement, or withdrawal; or

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. A violation of any provision of this section is a level two violation under section 374.049, RSMo.

384.054. DELINQUENT TAX, PENALTY, INTEREST. — Any tax imposed by sections 384.011 to 384.071 which is delinquent in payment shall be subject to a penalty of **one percent**

of the tax per diem up to ten percent of the tax. Any delinquent tax shall bear interest at the rate determined under section 32.065, RSMo, from the time such tax is due.

384.071. VIOLATIONS, PENALTIES. — 1. **If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any of these sections is a level three violation under section 374.049, RSMo.**

2. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 384.011 to 384.071 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any of these sections is a level three violation under section 374.049, RSMo.

3. Any surplus lines licensee who in this state represents or aids a nonadmitted insurer in violation of the provisions of sections 384.011 to 384.071 may be found guilty of a **class B** misdemeanor and subject to a fine not in excess of one thousand dollars.

[2. In addition to any other penalty provided for herein or otherwise provided by law, including any suspension, revocation or refusal to renew a license, any person, firm, association or corporation violating any provision of sections 384.011 to 384.071 shall be liable to a penalty not exceeding one thousand dollars for the first offense, and not exceeding two thousand dollars for each succeeding offense.

3.**]** **4.** The above penalties are not exclusive remedies. **[**Penalties may also be assessed under sections 375.930 to 375.948, RSMo.**]**

409.950. FIDUCIARIES AND EMPLOYEE RETIREMENT SYSTEMS, INVESTMENT IN CERTAIN MULTINATIONAL DEVELOPMENT BANKS AUTHORIZED. — Notwithstanding any other law to the contrary, securities or other obligations issued by multinational development banks in which the United States is a member nation, including the African Development Bank, shall be treated as eligible for investment by all employee retirement systems and by all fiduciaries created or regulated pursuant to the laws of this state. Nothing in this section or in section **[**376.303 or**]** 379.080, RSMo, shall be construed to require such investments.

[374.261. EXAMINER'S SICK LEAVE, DEFINITIONS. — As used in sections 374.261 to 374.269, the following words mean:

(1) "Director", the director of the department of insurance;

(2) "Examiners", nonsalaried employees of the department of insurance conducting an examination pursuant to section 374.190;

(3) "Sick leave", those days of leave taken during the conduct of an examination during which an examiner is prevented from conducting an examination due to illness or injury.**]**

[374.263. FUND, INSURANCE EXAMINER'S SICK LEAVE ESTABLISHED, PURPOSE. — There is hereby created in the state treasury a fund to be known as the "Insurance Examiner's Sick Leave Fund", hereinafter referred to as the "fund". The fund shall be used to pay the daily wages of department of insurance examiners who are temporarily unable to continue an examination of an insurance company or companies pursuant to section 374.190, because of illness or injury suffered or sustained by the examiner during the course of the examination which the examiner is conducting.**]**

[374.265. ASSESSMENT OF DOMESTIC INSURERS, AMOUNT, WHEN. — 1. There shall be an amount assessed against those domestic insurers which are subject to premium tax and are engaged in the business of insurance within this state, which amount shall be no less than one hundred and fifty nor greater than five hundred dollars.

2. The initial assessment shall be made within one month of September 28, 1981, in the total amount of thirty-six thousand dollars. Thereafter, assessments shall be made annually, or as needed whenever the balance in the fund becomes less than ten thousand dollars. The amount of such subsequent assessments shall be that amount necessary to return the balance in the fund to thirty-six thousand dollars.**]**

[374.267. FUND ADMINISTRATION — PAYMENT TO EXAMINERS, REQUIREMENTS — COMPUTATION, LIMITATION. — 1. The director of the department of insurance, his agents or appointees shall be empowered to make assessments pursuant to section 374.265, and to administer the fund.

2. The director, his agents or appointees shall compensate an examiner out of the fund only after the examiner has satisfied the director, his agents or appointees that:

(1) The examiner was employed by the department of insurance to conduct an examination of an insurance company or companies pursuant to section 374.190 at the time of the illness or injury for which daily wages are claimed; and

(2) The examiner was prevented from conducting the examination due to illness or injury.

3. The amount paid by the director, his agents or appointees to an examiner from the fund shall not exceed the amount of the examiner's daily wages times the number of days during which the examiner was prevented from conducting an examination as result of illness or injury, but in no event shall any examiner be paid for more than one and one-fourth days times the number of months for which he has been employed by the department of insurance as an examiner, nor shall an examiner be paid for or receive credit for sick leave after August 13, 1988, for or on the basis of any month, months or portion thereof before August 13, 1988.**]**

[376.320. BONDS AND EVIDENCES OF DEBT TO BE VALUED, HOW. — All bonds or other evidences of debt having a fixed term and rate held by any life insurance company, assessment life association or fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; provided, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and provided further, that the director of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule.**]**

[376.672. POLICY LOAN INTEREST RATES, TERMS AND CONDITIONS ESTABLISHED BY DIRECTOR, HOW, WHEN. — The director of the department of insurance shall establish by regulation the terms and conditions of policy loan interest rate provisions for all policies issued or delivered by a life insurance company in this state after August 13, 1982. Such regulations shall include provisions for an adjustable maximum interest rate based on the monthly average of the Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc., the frequency at which the rate is to be determined and appropriate notifications to policyholders. No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates. This section shall also apply to loan interest rate provisions for certificates issued or delivered by fraternal benefit societies in this state, and for purposes of this section the word "policy" includes such certificates.**]**

[381.003. TITLE INSURANCE LAW, APPLICATION — PERSONS, TITLE INSURERS AND TITLE AGENCIES — APPLICATION OF GENERAL INSURANCE CODE. — 1. Sections 381.003 to 381.125 shall be known and may be cited as the "Missouri Title Insurance Act".

2. Sections 381.009 to 381.048 shall apply to all persons engaged in the business of title insurance in this state. Sections 381.052 to 381.112 shall apply to all title insurers engaged in the business of title insurance in this state. Sections 381.115 to 381.125 shall apply to all title agencies engaged in the business of title insurance in this state.

3. Except as otherwise expressly provided in this chapter and except where the context otherwise requires, all provisions of the insurance code applying to insurance and insurance companies generally shall apply to title insurance, title insurers and title agents.**]**

[381.009. DEFINITIONS. — As used in this chapter, the following terms mean:

(1) "Abstract of title" or "abstract", a written history, synopsis or summary of the recorded instruments affecting the title to real property;

(2) "Affiliate", a specific person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(3) "Affiliated business", any portion of a title insurance agency's business written in this state that was referred to it by a producer of title insurance business or by an associate of the producer, where the producer or associate, or both, have a financial interest in the title agency;

(4) "Associate", any:

(a) Business organized for profit in which a producer of title business is a director, officer, partner, employee or an owner of a financial interest;

(b) Employee of a producer of title business;

(c) Franchisor or franchisee of a producer of title business;

(d) Spouse, parent or child of a producer of title insurance business who is a natural person;

(e) Person, other than a natural person, that controls, is controlled by, or is under common control with, a producer of title business;

(f) Person with whom a producer of title insurance business or any associate of the producer has an agreement, arrangement or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to that producer or associate for the referral of business;

(5) "Bona fide employee of the title insurer", an individual who devotes substantially all of his or her time to performing services on behalf of a title insurer and whose compensation for those services is in the form of salary or its equivalent paid by the title insurer;

(6) "Control", including the terms "controlling", "controlled by" and "under common control with", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent or more of the voting securities of another person. This presumption may be rebutted by showing that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(7) "County" or "counties" includes any city not within a county;

(8) "Direct operations", that portion of a title insurer's operations which are attributable to business written by a bona fide employee;

(9) "Director", the director of the department of insurance, or the director's representatives;

(10) "Escrow", written instruments, money or other items deposited by one party with a depository, escrow agent or escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(11) "Escrow, settlement or closing fee", the consideration for supervising or handling the actual execution, delivery or recording of transfer and lien documents and for disbursing funds;

(12) "Financial interest", a direct or indirect legal or beneficial interest, where the holder is or will be entitled to five percent or more of the net profits or net worth of the entity in which the interest is held;

(13) "Foreign title insurer", any title insurer incorporated or organized pursuant to the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States;

(14) "Geographically indexed or retrievable", a system of keeping recorded documents which includes as a component a method for discovery of the documents by:

(a) Searching an index arranged according to the description of the affected land; or

(b) An electronic search by description of the affected land;

(15) "Net retained liability", the total liability retained by a title insurer for a single risk, after taking into account any ceded liability and collateral, acceptable to the director, and maintained by the insurer;

(16) "Non-United States title insurer", any title insurer incorporated or organized pursuant to the laws of any foreign nation or any province or territory;

(17) "Premium", the consideration paid by or on behalf of the insured for the issuance of a title insurance policy or any endorsement or special coverage. It does not include consideration paid for settlement or escrow services or noninsurance-related information services;

(18) "Producer", any person, including any officer, director or owner of five percent or more of the equity or capital of any person, engaged in this state in the trade, business, occupation or profession of:

(a) Buying or selling interests in real property;

(b) Making loans secured by interests in real property; or

(c) Acting as broker, agent, representative or attorney of a person who buys or sells any interest in real property or who lends or borrows money with the interest as security;

(19) "Qualified depository institution", an institution that is:

(a) Organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed pursuant to the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(b) Regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the director;

(20) "Referral", the directing or the exercising of any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral;

(21) "Search", "search of the public records" or "search of title", a search of those records established by the laws of this state for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge;

(22) "Security" or "security deposit", funds or other property received by the title insurer as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which the insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage;

(23) "Subsidiary", an affiliate controlled by a person directly or indirectly through one or more intermediaries;

(24) "Title agency" means an authorized person who issues title insurance on behalf of a title insurer. An attorney licensed to practice law in this state who issues title insurance as a part of his or her law practice, but does not maintain or operate a title insurance business separate from such law practice is not a title agency;

(25) "Title agent" or "agent", an attorney licensed to practice law in this state who issues title insurance as part of his or her law practice, but who is not affiliated with or acting on behalf of a title agency, or an authorized person who, on behalf of a title agency or on behalf of a title agent not affiliated with a title agency, performs one or more of the following acts in conjunction with the issuance of a title insurance commitment or policy:

(a) Determines insurability, based upon a review of a search of title;

(b) Performs searches;

(c) Handles escrows, settlements or closings; or

(d) Solicits or negotiates title insurance business;

(26) "Title insurance business" or "business of title insurance":

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurer any of the following activities when conducted or performed in contemplation of and in conjunction with the issuance of a title insurance policy:

a. Soliciting or negotiating the issuance of a title insurance policy;

b. Guaranteeing, warranting or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and proprietary leases and for all liens or charges affecting the same;

c. Handling of escrows, settlements or closings;

d. Executing title insurance policies;

e. Effecting contracts of reinsurance; or

f. Abstracting, searching or examining titles;

(c) Guaranteeing, warranting or insuring searches or examinations of title to real property or any interest in real property;

(d) Guaranteeing or warranting the status of title as to ownership of or liens on real property by any person other than the principals to the transaction;

(e) Promising to purchase or repurchase for consideration an indebtedness because of a title defect, whether or not involving a transfer of risk to a third person; or

(f) Promising to indemnify the holder of a mortgage or deed of trust against loss from the failure of the borrower to pay the mortgage or deed of trust when due if the property fails to yield sufficient proceeds upon foreclosure to satisfy the debt, when one or both of the following conditions exist:

a. The security has been impaired by the discovery of a previously unknown property interest in favor of one who is not liable for the payment of the mortgage or deed of trust; or

b. Perfection of the position of the mortgage or deed of trust which was assured to exist cannot be obtained, notwithstanding timely recordation with the recorder of deeds of the county in which the property is located; or

(g) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subdivision in a manner designed to evade the provisions of this chapter;

(27) "Title insurance commitment" or "commitment", a preliminary report, commitment or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions and other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy. A title insurance commitment is not an abstract of title;

(28) "Title insurance policy" or "policy", a contract insuring or indemnifying owners of, or other persons lawfully interested in, real property or any interest in real property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:

(a) Title to the estate or interest in land being otherwise than as stated in the policy;

(b) Defects in or liens or encumbrances on the insured title;

(c) Unmarketability of the insured title;

(d) Lack of legal right of access to the land;

(e) Invalidity or unenforceability of the lien of an insured mortgage;

(f) The priority of a lien or encumbrance over the lien of any insured mortgage;

(g) The lack of priority of the lien of an insured mortgage over a statutory lien for services, labor or material;

(h) The invalidity or unenforceability of an assignment of the insured mortgage; or

(i) Rights or claims relating to the use of or title to the land;

(29) "Title insurer" or "insurer", a company organized pursuant to laws of this state for the purpose of transacting the business of title insurance and any foreign or non-United States title insurer licensed in this state to transact the business of title insurance;

(30) "Title plant", a set of records encompassing at least the most recent forty-five years, consisting of documents, maps, surveys or entries affecting title to real property or any interest in or encumbrance on the property, which have been filed or recorded in the jurisdiction for which the title plant is established or maintained. The records in the title plant shall be geographically indexed or retrievable as to those records containing a legal description of affected land, and otherwise by name of affected person;

(31) "Underwrite", the authority to accept or reject risk on behalf of the title insurer.**]**

[381.011. CITATION OF LAW — PURPOSE STATEMENT. — 1. Sections 381.011 to 381.241 shall be known and may be cited as the "Missouri Title Insurance Act".

2. The purpose of sections 381.011 to 381.241 is to provide the state of Missouri with a comprehensive body of law for the effective regulation and supervision of title insurance business transacted within this state in response to the McCarran-Ferguson Act, Sections 1011-1015, Title 15, United States Code.**]**

[381.015. TITLE INSURANCE COMMITMENT, REQUIRED STATEMENT, WHEN — LENDER'S INSURANCE POLICY WITHOUT OWNER'S TITLE INSURANCE, NOTICE GIVEN WHEN, CONTENTS, RETENTION — PENALTY FOR VIOLATION. — 1. When a title insurance commitment issued by a title insurer, title agency or title agent includes an offer to issue an owner's policy covering the resale of owner-occupied residential property, the commitment shall incorporate the following statement in bold type:

"Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered."

2. A title insurer, title agency or title agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the director, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain what a title policy insures against and what possible exposures exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's policy. The notice shall also explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages are or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least fifteen years after the effective date of the policy.

3. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.**]**

[381.018. WRITTEN CONTRACT WITH TITLE INSURER REQUIRED FOR COMMITMENT OR POLICY ISSUANCE, STATEMENT OF FINANCIAL CONDITION WHEN, CONTENTS, REVIEW AND NOTIFICATION REQUIREMENTS, INVENTORY, PROOF OF LICENSURE, PENALTY FOR

VIOLATION. — 1. The title insurer shall not allow the issuance of its commitments or policies by a title agency or title agent not affiliated with a title agency unless there is in force a written contract between the parties which sets forth the responsibilities of each party or, where both parties share responsibility for particular functions, specifies the division of responsibilities.

2. For each title agency or title agent not affiliated with a title agency under contract with the insurer, the title insurer shall have on file a statement of financial condition, of each title agency or title agent as of the end of the previous calendar or fiscal year setting forth an income statement of business done during the preceding year and a balance sheet showing the condition of its affairs as of the close of the prior year, certified by the agency or agent as being a true and accurate representation of the agency's or agent's financial condition. The statement shall be filed with the insurer no later than the date the agency's or agent's federal income tax return for the same year is filed. Attorneys actively engaged in the practice of law, in addition to that related to title insurance business, are exempt from the requirements of this subsection.

3. The title insurer shall conduct reviews of the underwriting, claims and escrow practices of its agencies and agents which shall include a review of the agency's or agent's policy blank inventory and processing operations. If any such title agency or title agent does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title agency or title agent not affiliated with a title agency. The title insurer shall conduct a review of each of its agencies and agents at least triennially commencing January first of the year first following January 1, 2001.

4. Within thirty days of executing or terminating a contract with a title agency or title agent not affiliated with a title agency, the insurer shall provide notification of the appointment or termination and the reason for termination to the director. Notices of appointment of a title agency or title agent shall be made on a form promulgated by the director.

5. The title insurer shall maintain an inventory of all policy numbers allocated to each title agency or title agent not affiliated with a title agency.

6. The title insurer shall have on file proof that the title agency or title agent is licensed by this state.

7. The title insurer shall establish the underwriting guidelines and, where applicable, limitations on title claims settlement authority to be incorporated into contracts with its title agencies and title agents not affiliated with a title agency.

8. Each violation of any provision of this section is a class B violation as that term is defined in section 381.045.**]**

[381.021. APPLICABILITY OF LAW. — 1. Sections 381.011 to 381.241 shall apply to all persons engaged in the business of title insurance in this state.

2. Except as otherwise expressly provided in sections 381.011 to 381.241, and except where the context otherwise requires, all provisions of the insurance laws of this state applying to insurance and insurance companies generally shall apply to title insurance and title insurance companies. No law of this state enacted after September 28, 1987, that is inconsistent with the provisions of such sections shall be applicable to the business of title insurance unless such law specifically states that it is to be applicable to the business of title insurance.

3. Nothing in sections 381.011 to 381.241 shall be construed to authorize the practice of law by any person who is not duly admitted to practice law in this state nor shall it be construed to authorize the director to regulate the practice of law or the sale of real estate.**]**

[381.022. TITLE INSURER, AGENCY OR AGENT NOT AFFILIATED WITH A TITLE AGENCY MAY OPERATE AS AN ESCROW, SECURITY, SETTLEMENT OR CLOSING AGENT, WHEN, PENALTY FOR VIOLATIONS. — 1. A title insurer, title agency or title agent not affiliated with a title agency may operate as an escrow, security, settlement or closing agent, provided that:

(1) All funds deposited with the title insurer, title agency or title agent not affiliated with a title agency in connection with any escrow, settlement, closing or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the next business day after receipt, in accordance with the following requirements:

(a) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit or closing in the records of the title insurer, title agency or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in accordance with the terms of the individual instructions or agreements under which the funds were accepted; and

(b) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted;

(2) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying under what conditions and to whom such funds may be disbursed or pursuant to an order of a court of competent jurisdiction;

(3) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(a) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(b) The duties of the title insurer, title agency or title agent not affiliated with a title agency with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(c) Any other provisions the director may require;

(4) Any interest received on funds deposited in connection with any escrow, settlement, security deposit or closing may be retained by the title insurer, title agency or title agent not affiliated with a title agency as compensation for administration of the escrow or security deposit, unless the instructions for the funds or a governing statute provides otherwise;

(5) Each violation of this subsection is a class A violation as that term is defined in section 381.045.

2. The title agency or title agent not affiliated with an agency shall cooperate with its underwriters in the conduct by the underwriters of reviews of the agency's or agent's escrow, settlement, closing and security deposit accounts. The title insurer shall provide a copy of the report of each such review it performs to the director. The director may promulgate rules setting forth the minimum threshold level at which a review would be required, the standards thereof and the form of report required.

3. If the title agency or title agent not affiliated with an agency is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow or closing settlement services, the title agency or title agent shall allow each title insurer reasonable access to the accounts and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title agency or title agent.

4. (1) Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction in which a title insurer, title agency or title agent not affiliated with a title agency is the settlement agent, provided all parties to whom payment will become due upon such recording consent thereto in writing.

(2) The settlement agent shall record all deeds and security instruments for real estate closings handled by it within three business days after completion of all conditions precedent thereto.

(3) Each violation of this subsection is a class C violation as that term is defined in section 381.045.**]**

[381.025. CONSIDERATION FOR REFERRALS PROHIBITED, PENALTY. — 1. A title insurer, title agency, title agent or other person shall not give or receive, directly or indirectly, any consideration for the referral of title insurance business or escrow or other service provided by a title insurer, title agency or title agent. Each violation of this subsection is a class A violation as that term is defined in section 381.045.

2. Any title insurer, title agency or title agent doing business in the same county as a title insurer, title agency or title agent who may be in violation of the prohibitions or limitations of this section shall have standing to seek injunctive relief against the violating title insurer, title agency or title agent in the event the department declines or fails to enforce this section within forty-five days following receipt of written notice of such violation. In any action pursuant to this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.**]**

[381.028. TITLE INSURERS, AGENCIES AND AGENTS PROHIBITED FROM ENGAGING IN TRANSACTIONS CONDITIONED ON USE OF PARTICULAR TITLE INSURER, PENALTY FOR VIOLATION. — No title insurer, title agency or title agent shall participate in any transaction in which it knows that a producer or other person requires, directly or indirectly, or through any trustee, director, officer, agent, employee or affiliate, as a condition, agreement or understanding to selling or furnishing any other person a loan, or loan extension, credit, sale, property, contract, lease or service, that the other person shall place a title insurance policy of any kind with the title insurer or through a particular title agency or agent. Each violation of this section is a class A violation as that term is defined in section 381.045.**]**

[381.032. PREMIUM RATE SCHEDULES AND MANUAL, TITLE INSURERS TO FILE WITH DIRECTOR, DEADLINE FOR FILING RATE SCHEDULES, VIOLATIONS, PENALTY — FEES FOR LEGAL SERVICES EXEMPT — RECORDING AND REPORTING RULES — CONFIDENTIALITY. — 1. No title insurer, may charge any rates regulated by the state after January 1, 2001, except in accordance with the premium rate schedule and manual filed with and approved by the director in accordance with applicable statutes and regulations governing rate filings. Premium rate schedules in effect prior to January 1, 2001, may be used until new rate schedules have been approved by the director. Title insurers shall file their premium rate schedules within thirty days after January 1, 2001. Each violation of this subsection is a class C violation as that term is defined in section 381.045. Nothing in this section shall prevent an agent not affiliated with an agency from charging for services that constitute the practice of law at the customary fee charged by such person for legal services. To the extent the premium fails to compensate the agent at such rate, the agent may render an additional bill for such services on behalf of the agent's law practice or law firm. The acceptance of any part of the premium by the law firm of said agent shall not be a violation of any provision of the Missouri title insurance act or the general insurance statutes, regulations or bulletins regarding payment of commissions to nonlicensed entities.

2. The director may establish rules, including rules providing statistical plans, for use by all title insurers, title agencies and title agents in the recording and reporting of revenue, loss and expense experience in such form and detail as is necessary to aid the director in the establishment of rates and fees.

3. The director may require that the information provided pursuant to this section be verified by oath of the insurer's or agency's president or vice president or secretary or actuary, as applicable. The director may further require that the information required pursuant to this section be subject to an audit conducted at the expense of the title insurer or title agency by an independent certified public accountant. The director shall have the authority to establish a minimum threshold level at which an audit would be required.

4. Information filed with the director relating to the experience of a particular agency shall be kept confidential unless the director finds it in the public interest to disclose the information

required of title insurers or title agencies pursuant to this section. Prior to any such disclosure of confidential information, the director shall provide notice and opportunity to be heard to the title insurers and title agencies who would be affected thereby.**]**

[381.035. DUTY TO DISCLOSE ACCURATE INFORMATION TO THE DIRECTOR AND RATING ORGANIZATION, PENALTY FOR VIOLATION. — No title insurance company, title agency or title agent shall willfully withhold information from, or knowingly give false or misleading information to the director, or to any title insurance rating organization, of which the title insurance company is a member or subscriber, which will affect the rates or fees chargeable pursuant to this chapter. Each violation of this section is a class A violation as that term is defined in section 381.045.**]**

[381.038. RETENTION OF RECORDS REQUIRED, LIMITATION, PENALTY FOR VIOLATION. — 1. Evidence of the examination of title and determination of insurability generated by a title insurer engaged in direct operations, title agency or title agent shall be preserved and maintained by such insurer, agency or agent for as long as appropriate to the circumstances but in no event less than fifteen years after the title insurance policy has been issued.

2. Records relating to escrow and security deposits shall be preserved and retained by a title insurer engaged in direct operations, title agency and title agent for as long as appropriate to the circumstances but in no event less than five years after the escrow or security deposit account has been closed.

3. This section shall not apply to a title insurer acting as coinsurer if one of the other coinsurers has complied with this section.

4. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.**]**

[381.041. WHO MAY TRANSACT TITLE INSURANCE BUSINESS, SERVICES ALLOWED — CAPITAL REQUIREMENTS. — 1. No person other than a domestic, foreign, or alien title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.

2. Each title insurer may engage in the title insurance business in this state if licensed to do so by the director and provide any other service related or incidental to the sale and transfer or financing of property.

3. A title insurer shall maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.**]**

[381.042. RULES, AUTHORITY, PROCEDURE. — 1. The director may issue rules, regulations and orders necessary to carry out the provisions of this chapter.

2. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**]**

[381.045. VIOLATIONS, PENALTIES. — 1. If the director determines that the title insurer or any other person has violated this chapter, or any regulation or order promulgated thereunder, after notice and opportunity to be heard, the director may order:

(1) For each violation a monetary penalty which shall take into account the harm the violation caused or could have caused or potential harm to the public and which shall not exceed:

(a) One thousand dollars per violation for a class A violation;

(b) Five hundred dollars per violation for a class B violation; and

(c) One hundred dollars per violation for a class C violation;

(2) Revocation or suspension of the title insurer's license; or

(3) Both monetary penalty and revocation or suspension.

2. Nothing contained in this section shall affect the right of the director to impose any other penalties provided for in the insurance code.

3. Nothing contained in this chapter is intended to or shall in any other manner limit or restrict the rights of policyholders, claimants and creditors.**]**

[381.048. COURT ACTIONS AUTHORIZED, WHEN. — The director may bring an action in a court of competent jurisdiction to enjoin violations of the Real Estate Settlement Procedures Act, 12 U.S.C. Section 2607, as amended.**]**

[381.051. DEPOSIT OF SECURITY WITH DIRECTOR, FORM, WITHDRAWAL AND EXCHANGE OF — ALTERNATIVE — PHASE-IN OF REQUIREMENT — USE OF SECURITY. — 1. A title insurer, before issuing any title insurance policy covering property located in this state, shall deposit with the director of the department of insurance, hereinafter referred to as the director, a sum of four hundred thousand dollars, which shall be held for the security and protection of the holders or beneficiaries under its title insurance policies.

2. Assets deposited pursuant to this section may, with the approval of the director, be exchanged from time to time for other assets that qualify under subsection 3 of this section.

3. The depositing title insurer shall receive the income, interests, and dividends on any assets deposited. The deposit required under this section may be made in legal tender or in investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus. For capital and reserve deposits, sums deposited pursuant to this section shall be valued at their market value.

4. A title insurer that has deposited assets pursuant to this section may, with the approval of the director, withdraw any part of the assets so deposited. If any such title insurer continues to engage in the business of title insurance, it shall not be permitted to withdraw assets that would reduce the amount of its deposits below the amount required by subsection 1 of this section.

5. In lieu of such a deposit maintained in this state, the director shall accept a certificate or certificates in proper form of the public officer or officers having general supervision of title insurers in its state of domicile to the effect that a deposit or total deposits, in an equal or greater amount, in classes of investment authorized in such state, are being maintained for like purposes in public custody or control pursuant to the laws of such state on behalf of the title insurer.

6. If sections 381.011 to 381.241 require a greater amount of capital and surplus or deposits than that required of a title insurer prior to September 28, 1987, such title insurer shall have three years after September 28, 1987, to comply with any such increased requirement.

7. The provisions of sections 375.950 to 375.990, RSMo, shall apply to the impairment of capital, liquidation, and rehabilitation of title insurers.**]**

[381.052. PERSONS AUTHORIZED TO CONDUCT TITLE INSURANCE BUSINESS. — No person other than a domestic, foreign or non-United States title insurer organized on the stock plan and duly licensed by the director shall transact title insurance business as an insurer in this state.**]**

[381.055. POWERS OF TITLE INSURER. — Subject to the exceptions and restrictions contained in this chapter, a title insurer shall have the power to:

(1) Do only title insurance business;

(2) Reinsure title insurance policies; and

(3) Perform ancillary activities, unless prohibited by the director, including examining titles to real property and any interest in real property and procuring and furnishing related information and information about relevant personal property, when not in contemplation of, or in conjunction with, the issuance of a title insurance policy.**]**

[381.058. LICENSE REQUIRED FOR INSURER TO TRANSACT BUSINESS OF TITLE INSURANCE, EXCLUSIVE TO OTHER TYPES OF INSURANCE BUSINESS — LIMITATIONS — CLOSING OR SETTLEMENT PROTECTION AUTHORIZED. — 1. No insurer that transacts any class, type or kind of business other than title insurance shall be eligible for the issuance or renewal of a license to transact the business of title insurance in this state nor shall title insurance be transacted, underwritten or issued by any insurer transacting or licensed to transact any other class, type or kind of business.

2. A title insurer shall not engage in the business of guaranteeing payment of the principal or the interest of bonds or mortgages.

3. (1) Notwithstanding subsection 1 of this section, and to the extent such coverage is lawful within this state, a title insurer is expressly authorized to issue closing or settlement protection to a proposed insured upon request if the title insurer issues a commitment, binder or title insurance policy. Such closing or settlement protection shall conform to the terms of coverage and form of instrument as required by the director and may indemnify a proposed insured solely against loss of settlement funds only because of the following acts of a title insurer's named title agency or title agent:

(a) Theft of settlement funds; and

(b) Failure to comply with written closing instructions by the proposed insured when agreed to by the title agency or title agent relating to title insurance coverage.

(2) The director may promulgate or approve a required charge for providing the coverage.

(3) A title insurer shall not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to escrow, settlement, or closing services.**]**

[381.061. NET RETAINED LIABILITY, LIMITS — DIRECTOR MAY WAIVE. — 1. The net retained liability of a title insurer for a single risk on property located in this state, whether assumed directly or as reinsurance, may not exceed fifty percent of the sum of its total surplus to policyholders and unearned premium reserve, less the admitted asset value assigned to title plants, as shown in the most recent annual statement of the title insurer on file in the office of the director.

2. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.**]**

[381.062. ESTABLISHMENT AND MAINTENANCE OF MINIMUM PAID-IN CAPITAL AND PAID-IN INITIAL SURPLUS NECESSARY FOR INSURANCE BUSINESS LICENSE. — Before being licensed to do an insurance business in this state, a title insurer shall establish and maintain a minimum paid-in capital of not less than four hundred thousand dollars and, in addition, paid-in initial surplus of at least four hundred thousand dollars.**]**

[381.065. NET RETAINED LIABILITY LIMITS, MAXIMUM AMOUNT — REINSURANCE ALLOWED — WAIVER BY DIRECTOR OF RISK, WHEN. — 1. The net retained liability of a title insurer for a single risk in regard to property located in this state, whether assumed directly or as reinsurance, shall not exceed the aggregate of fifty percent of surplus as regards policyholders plus the statutory premium reserve less the company's investment in title plants, all as shown in the most recent annual statement of the insurer on file with the director.

2. For purposes of this chapter:

(1) A single risk shall be the insured amount of any title insurance policy, except that, where two or more title insurance policies are issued simultaneously covering different estates in the same real property, a single risk shall be the sum of the insured amounts of all the title insurance policies; and

(2) A policy under which a claim payment reduces the amount of insurance under one or more other title insurance policies shall be included in computing the single risk sum only to the

extent that its amount exceeds the aggregate amount of the policy or policies whose amount of insurance is reduced.

3. A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least eight hundred thousand dollars.

4. The director may waive the limitation of this section for a particular risk upon application of the title insurer and for good cause shown.**]**

[381.068. INVESTMENT IN TITLE PLANT, AMOUNT RESTRICTED, CONSIDERED ASSET. — In determining the financial condition of a title insurer doing business pursuant to this chapter, the general investment provisions of sections 376.300 to 376.305, RSMo, shall apply; except that, an investment in a title plant or plants in an amount equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate amount of the investment shall not exceed fifty percent of surplus to policyholders, as shown on the most recent annual statement of the title insurer on file with the director.**]**

[381.072. RESERVE REQUIREMENTS, RESERVE TO COVER ALL KNOWN CLAIMS — UNEARNED PREMIUM RESERVE, AMOUNT, ACTUARIAL CERTIFICATION REQUIRED, SUPPLEMENTAL RESERVE, AMOUNT, DEADLINE. — In determining the financial condition of a title insurer doing business pursuant to this chapter, the general provisions of the insurance code requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense, shall apply; except that, a title insurer shall establish and maintain:

(1) (a) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims and allocated loss adjustment expenses arising under title insurance policies for which the title insurer may be liable, and for which the insurer has discovered or received notice by or on behalf of the insured or escrow or security depositor;

(b) Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim;

(c) Reserves required pursuant to this section may be revised from time to time and shall be redetermined at least once each year;

(2) A statutory or unearned premium reserve established and maintained as follows:

(a) A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements;

(b) The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured;

(c) The unearned premium reserve shall consist of:

a. The amount of the unearned premium reserve on January 1, 2001; and

b. A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's

policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after January 1, 2001;

(d) Amounts placed in the unearned premium reserve in any year in accordance with paragraph (c) of this subdivision shall be deducted in determining the net profit of the title insurer for that year;

(e) A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before January 1, 2001, shall be released in accordance with the law in effect immediately before January 1, 2001;

(f) a. Each domestic and foreign title insurer shall file annually with the audited financial report required pursuant to section 375.1032, RSMo, an actuarial certificate made by a member in good standing of the American Academy of Actuaries, or by an actuary permitted to make such certificate by the commissioner, superintendent or director of the department of insurance of the state of incorporation of a foreign title insurer;

b. The actuarial certification shall conform to the annual statement instructions for title insurers adopted by the National Association of Insurance Commissioners and shall include the actuary's professional opinion of the insurer's reserves as of the date of the annual statement. The reserves analyzed pursuant to this section shall include reserves for known claims, including adverse developments on known claims, and reserves for incurred but not reported claims;

(g) a. Each domestic and foreign title insurer shall establish a supplemental reserve in the amount by which the actuarially certified reserves exceed the total of the known claim reserve and statutory premium reserve as set forth in the title insurer's annual financial report, subject to this subdivision;

b. The supplemental reserve required pursuant to this section shall be phased in as follows:

i. Twenty-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the year next following January 1, 2001;

ii. Fifty percent of the otherwise applicable supplemental reserve is required until December thirty-first of the second year following January 1, 2001;

iii. Seventy-five percent of the otherwise applicable supplemental reserve is required until December thirty-first of the third year following January 1, 2001;

iv. One hundred percent of the supplemental reserve is required after December thirty-first of the fourth year following January 1, 2001.**]**

[381.075. ADDITIONAL INSURANCE LAWS APPLICABLE TO TITLE INSURERS, INSURER'S SUPERVISION, REHABILITATION AND LIQUIDATION ACT, EXCEPTIONS — LIQUIDATION OR INSOLVENCY, TREATMENT OF SECURITY AND ESCROW FUNDS, FILING OF CLAIMS, CANCELLATION OF POLICIES, PAYMENT OF FULLY EARNED PREMIUMS. — 1. Sections 375.570 to 375.750, RSMo, and sections 375.1150 to 375.1246, RSMo, shall apply to all title insurers subject to the title insurance act, except as otherwise provided in this section. In applying such sections, the court shall consider the unique aspects of title insurance and shall have broad authority to fashion relief that provides for the maximum protection of the title insurance policyholders.

2. Security and escrow funds held by or on behalf of the title insurer shall not become general assets and shall be administered as secured claims as defined in section 375.1152, RSMo.

3. Title insurance policies that are in force at the time an order of liquidation is entered shall not be canceled except upon a showing to the court of good cause by the liquidator. The determination of good cause shall be within the discretion of the court. In making this

determination, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

4. The court may set appropriate dates that potential claimants must file their claims with the liquidator. The court may set different dates for claims based upon the title insurance policy than for all other claims. In setting dates, the court shall consider the unique aspects of title insurance and all other relevant circumstances.

5. As of the date of the order of insolvency or liquidation, all premiums paid, due or to become due under policies of the title insurers, shall be fully earned. It shall be the obligation of title agencies, title agents, insureds or representatives of the title insurer to pay fully earned premium to the liquidator or rehabilitator.**]**

[381.078. DIVIDENDS, AUTHORIZED WHEN. — A title insurer shall only declare or distribute a dividend to shareholders with the prior written approval of the director, as would be permitted pursuant to subdivision (1) of subsection 1 of section 382.210, RSMo.**]**

[381.081. UNEARNED PREMIUM RESERVE, REQUIRED, AMOUNT — RELEASE OF PORTION, ADJUSTMENTS. — 1. A domestic title insurer shall establish and maintain an unearned premium reserve computed in accordance with this section, and all sums attributed to such reserve shall at all times and for all purposes be considered and constitute unearned portions of the original premiums. This reserve shall be reported as a liability of the title insurer in its financial statements.

2. The unearned premium reserve shall be maintained by the title insurer for the protection of holders of title insurance policies. Except as provided in this section, assets equal in value to the reserve are not subject to distribution among creditors or stockholders of the title insurer until all claims of policyholders or claims under reinsurance contracts have been paid in full, and all liability on the policies or reinsurance contracts has been paid in full and discharged or lawfully reinsured.

3. A foreign or alien title insurer licensed to transact title insurance business in this state shall maintain at least the same reserves on title insurance policies issued on properties located in this state as are required of domestic title insurers, unless the laws of the jurisdiction of domicile of the foreign or alien title insurer require a higher amount.

4. The unearned premium reserve shall consist of:

(1) The amount of the unearned premium reserve on September 28, 1987; and

(2) A sum equal to fifteen cents for each one thousand dollars of net retained liability under each title insurance policy, excluding mortgagee's policies simultaneously issued with owner's policies or owner's leasehold policies of the same or greater amount, on a single risk written on properties located in this state and issued after September 28, 1987.

5. Amounts placed in the unearned premium reserve in any year in accordance with subdivision (2) of subsection 4 of this section shall be deducted in determining the net profit of the title insurer for that year.

6. A title insurer shall release from the unearned premium reserve a sum equal to ten percent of the amount added to the reserve during a calendar year on July first of each of the five years following the year in which the sum was added, and shall release from the unearned premium reserve a sum equal to three and one-third percent of the amount added to the reserve during that year on each succeeding July first until the entire amount for that year has been released. The amount of the unearned premium reserve or similar unearned premium reserve maintained before September 28, 1987, shall be released in accordance with the law in effect immediately before September 28, 1987.**]**

[381.085. FORMS, DIRECTOR TO APPROVE BEFORE USE — CONTENTS CONCERNING COVERAGE OF POLICY, WHEN INCLUDED — DISAPPROVAL BY DIRECTOR, PROCEDURE. — 1. A title insurer or authorized rate service organization shall not deliver or issue for delivery or

permit any of its authorized title agencies or title agents to deliver in this state, any form, in connection with title insurance written, unless it has been filed with the director and approved by the director or thirty days have elapsed and it has not been disapproved as misleading or violative of public policy. Each violation of this subsection is a class C violation as that term is defined in section 381.045.

2. Forms covered by this section shall include:

(1) Title insurance policies, including standard form endorsements; and

(2) Title insurance commitments issued prior to the issuance of a title insurance policy.

3. After notice and opportunity to be heard are given to the insurer or rate service organization which submitted a form for approval, the director may withdraw approval of the form on finding that the use of the form is contrary to the legal requirements applicable at the time of withdrawal. The effective date of withdrawal of approval shall not be less than ninety days after notice of withdrawal is given.

4. Any term or condition related to an insurance coverage provided by an approved title insurance policy or any exception to the coverage, except those ascertained from a search and examination of records relating to a title or inspection or survey of a property to be insured, may only be included in the policy after the term, condition or exception has been filed with the director and approved as herein provided.**]**

[381.088. INSURER MAY SATISFY DUTY TO FILE PREMIUM RATES BY JOINING OR SUBSCRIBING TO A RATE SERVICE ORGANIZATION. — 1. A title insurer may satisfy its obligation to file premium rates, rating manuals and forms as required by this chapter by becoming a member of, or a subscriber to, a rate service organization, organized and licensed pursuant to the provisions of this chapter, where the organization makes the filings, and by authorizing the director in writing to accept the filings on the insurer's behalf.

2. Nothing in this chapter shall be construed as requiring any title insurer, title agency or title agent to become a member of, or a subscriber to, any rate service organization. Nothing in this chapter shall be construed as prohibiting the filing of deviations from rate service organization filings by any member or subscriber.**]**

[381.091. INSOLVENCY OF INSURER, INSURERS IN PROCESS OF LIQUIDATION OR DISSOLUTION, USE OF UNEARNED PREMIUM RESERVE. — 1. If a domestic title insurer becomes insolvent, is in the process of liquidation or dissolution, or is in the possession of the director:

(1) Such amount of the assets of such title insurer equal to the unearned premium reserve then remaining may be used by or with the written approval of the director to pay for reinsurance of the liability of such title insurer upon all outstanding title insurance policies or reinsurance agreements to the extent to which claims for losses by the holders thereof are not then pending. The balance of assets, if any, equal to the unearned premium reserve, may then be transferred to the general assets of the title insurer;

(2) The net assets of the unearned premium reserve shall be available to pay claims for losses sustained by holders of title insurance policies then pending or arising up to the time reinsurance is effected. If claims for losses exceed such other assets of the title insurer, such claims, when established, shall be paid pro rata out of the surplus assets attributable to the unearned premium reserve to the extent of such surplus, if any.

2. If reinsurance is not obtained, assets equal to the unearned premium reserve and assets constituting minimum capital, or so much as remains thereof after outstanding claims have been paid, shall constitute a trust fund to be held and invested by the director for twenty years, out of which claims of policyholders shall be paid as they arise. The balance, if any, of the trust fund shall, at the expiration of twenty years, revert to the general assets of the title insurer.**]**

[381.092. TITLE INSURERS AND RATING ORGANIZATIONS TO PROPOSE PREMIUM RATES, FACTORS FOR CONSIDERATION — RATING ORGANIZATION TO CLASSIFY POLICIES OR

CONTRACTS TO USE AS BASIS FOR RATES. — 1. Every title insurer that shall propose its own premium rates and every title insurance rating organization shall propose premium rates that are not excessive nor inadequate for the safety and soundness of any title insurer, which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which shall give due consideration to the following matters:

(1) The desirability for stability and responsiveness of rate structures;

(2) The necessity of assuring the financial solvency of title insurance companies in periods of economic depression;

(3) The necessity for paying dividends on the capital stock of title insurance companies sufficient to induce capital to be invested therein; and

(4) A reasonable level of profit for the insurer.

2. Every title insurer that shall propose its own rates and every title insurance rating organization may adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rates.**]**

[381.095. DIRECTOR TO REVIEW RATE FILINGS, APPROVAL WHEN, PUBLIC HEARING, DURATION OF APPROVAL — PROCEDURE FOR DISAPPROVAL OF FILING, HEARING, ORDER — RIGHT OF THIRD PARTY TO CONTEST FILING, PROCEDURE, HEARING, ORDER. — 1. If the director shall find in his review of rate filings that the filings provide for, result in, or produce rates that are not unreasonably high, and are not inadequate for the safeness and soundness of the insurer, and are not unfairly discriminatory between risks in this state involving essentially the same hazards and expense elements, the director shall approve such rates. Prior to such approval the director may conduct a public hearing with respect to a rate filing. An approval shall continue in effect until the director shall issue an order of disapproval pursuant to the requirements and procedure provided for in subsections 2 and 3 of this section.

2. Upon the review at any time by the director of a rate filing, the director shall, before issuing an order of disapproval, hold a hearing upon not less than ten days' written notice, specifying in reasonable detail the matters to be considered at such hearing, to every title insurer and title insurance rating organization which made such filing, and if, after such hearing, the director finds that such filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. A title insurer or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof, subject to the provisions of section 381.102, in the case of deviation filing. Copies of the order shall be sent to every title insurer and title insurance rating organization affected. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

3. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon. The title insurance company or title insurance rating organization that made the filing shall not be authorized to proceed pursuant to this subsection. Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director shall find that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding such a hearing, the director shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurance company and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of this chapter, the director shall issue an order specifying in what respects the director finds that such filing or a part thereof fails to meet the requirements of this chapter, stating when within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such title insurer and title insurance rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.**]**

[381.098. RATING ORGANIZATION FOR TITLE INSURER'S LICENSE, WHO ELIGIBLE, APPLICATION, CONTENTS — ISSUANCE, DURATION, FEE, DISCIPLINARY ACTION — NOTIFICATION REQUIREMENTS — SUBSCRIBERS, RULES, HEARINGS BY DIRECTOR, WHEN, PROCEDURE. — 1. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the director for license as a rating organization for title insurers, and shall file therewith:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

(2) A list of its members and subscribers;

(3) The name and address of a resident of this state upon whom notices or orders of the director or process affecting such rating organization may be served; and

(4) A statement of its qualifications as a title insurance rating organization.

2. If the director finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization, and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, conform to requirements of law, the director shall issue a license authorizing the applicant to act as a rating organization for title insurance. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the director or withdrawn by the licensee. The fee for such license shall be one thousand five hundred dollars. Licenses issued pursuant to this section may be suspended or revoked by the director, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the director promptly of every change in:

(1) Its constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business;

(2) Its list of members and subscribers; and

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting such rating organization may be served.

3. Subject to rules and regulations which have been approved by the director as reasonable, each title insurance rating organization shall permit any title insurance company not a member to be a subscriber to its rating services. Notices of proposed changes in such rules and regulations shall be given to subscribers. Each such rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any such rating organization to admit a title insurance company as a subscriber, shall at the request of any subscriber or any such title insurance company, be reviewed by the director at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber. If the director finds that such rule or regulation is unreasonable in its application to subscribers, the director shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an application of a title insurance company for subscribership within thirty days after it was made, the title insurance company may request a review by the director as if the application had been rejected. If the director finds that the title insurance company has been refused admittance to the title insurance rating organization as a subscriber without justification, the director shall order such rating organization to admit the title insurance company as a subscriber. If the director finds that the action of the title insurance rating organization was justified, the director shall make an order affirming its action.**]**

[381.101. RESERVES AGAINST UNPAID LOSSES AND EXPENSES, INSURERS TO MAINTAIN. — 1. All title insurers licensed in this state shall establish and maintain reserves against unpaid losses and loss expenses.

2. Upon receiving notice from or on behalf of the insured of a title defect in or lien or adverse claim against the title of the insured that may result in a loss or cause expense to be

incurred in the proper disposition of the claim, the title insurer shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim.

3. Reserves required under this section may be revised from time to time and shall be redetermined at least once each year.**]**

[381.102. INSURANCE RATING ORGANIZATION FILINGS, ADHERENCE REQUIRED — UNIFORM PERCENTAGE OF DECREASE OR INCREASE ALLOWED AS DEVIATION FILING, CONTENTS. — Every member of or subscriber to a title insurance rating organization shall adhere to the filings made on its behalf by such organization, except that any title insurance company which is a member of or subscriber to such a rating organization may file with the director a uniform percentage of decrease or increase to be applied to any or all elements of the fees produced by the rating system so filed for a class of title insurance which is found by the director to be a proper rating unit for the application of such uniform decrease or increase, or to be applied to the rates for a particular area, or otherwise deviate from the rating plans, policy forms or other matters which are the subject of filings pursuant to this chapter. Such deviation filing shall specify the basis for the modification and shall be accompanied by the data or historical pattern upon which the applicant relies. A copy of the deviation filing and data shall be sent simultaneously to such rating organization. Deviation filings shall be subject to the provisions of section 381.095.**]**

[381.105. APPEALS FROM RATING ORGANIZATION FILINGS, HEARING, POSSIBLE DISPOSITIONS — RATING ORGANIZATION DEEMED TO HAVE REJECTED PROPOSED CHANGE TO FILINGS, WHEN, RIGHT OF APPEAL. — 1. Any member of or subscriber to a title insurance rating organization may appeal to the director from any action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization, and the director shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal and to take action or make a decision upon it within thirty days. If such appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, the director may, in the event the director finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the director's findings, within a reasonable time after the issuance of such order. If the appeal is from the action of the title insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director shall approve the action of the rating organization or such modification thereof as shall have been suggested by the appellant if either be made in accordance with this chapter.

2. The failure of a title insurance rating organization to take action or make a decision within thirty days after submission to it of a proposal pursuant to this section shall constitute a rejection of such proposal within the meaning of this section. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense allocation which differs from the system of expense allocation included in a filing made by such rating organization, the director shall, if the director grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal, the director shall apply the standards set forth in section 381.032.**]**

[381.108. RULES AND STATISTICAL PLANS FOR RATING SYSTEMS, DEPARTMENT TO COMPILE, PURPOSE TO PROMOTE UNIFORMITY AMONG STATES — INFORMATION TO BE EXCHANGED WITH OTHER STATES. — 1. The director shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with the department,

which may be modified from time to time, and which shall be used thereafter by each title insurer in the recording and reporting of the composition of its business, its loss and countrywide expense experience and those of its title insurance underwriters in order that the experience of all title insurers may be made available, at least annually, in such form and detail as may be necessary to aid him or her in determining whether rating systems comply with the standards set forth in this chapter. Such rules and plans may also provide for the recording of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the director shall give due consideration to the rating systems on file with the department, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. Such rules and plans shall not place an unreasonable burden of expense on any title insurer. No title insurer shall be required to record or report its expense and loss experience on a classification basis that is inconsistent with the rating system filed by it, nor shall any title insurer be required to report the experience to any agency of which it is not a member or subscriber. The director may designate one or more rating organizations or other agencies to assist the director in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the director, to title insurers and rating organizations. The director shall give preference in such designation to entities organized by and functioning on behalf of title insurers operating in this state. If the director, in his or her judgment, determines that one or more of such organizations designated as statistical agents is unable or unwilling to perform its statistical functions according to reasonable requirements established from time to time by the director, he or she may, after consultation with such statistical agent and upon twenty days' notice to any affected companies, designate another person to act on the director's behalf in the gathering of statistical experience. The director shall in such case establish the fee to be paid to such designated person by the affected companies in order to pay the total cost of gathering and compiling such experience. Agencies designated by the director shall assist the director in making compilations of the reported data and such compilations shall be made available, subject to reasonable rules and regulations promulgated by the director, to insurers, rating organizations and any other interested parties.

2. Reasonable rules and plans may be promulgated by the director for the interchange of data necessary for the application of rating plans.

3. In order to further uniform administration of rate regulatory laws, the director and every title insurer and rating organization may exchange information and experience data with insurance supervisory officials, title insurers and rating organizations in other states, and may consult with them with respect to rate making and the application of rating systems.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**]**

[381.111. REINSURANCE, INSURER MAY OBTAIN. — A title insurer may obtain reinsurance for all or any part of its liability under its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurers on single risks located in this state or elsewhere. Reinsurance on policies issued on properties located in this state may be obtained from any title insurers licensed to transact title insurance business in this state, any other state, or the District of Columbia and which have a combined capital and surplus of at least eight hundred thousand dollars.**]**

[381.112. PREMIUM TAX, PREMIUM INCOME DEFINED. — For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall mean the amount of premium actually remitted to the title insurer and shall exclude

any amount of premium retained by the title agent within the definition of "premium" contained in section 381.009.**]**

[381.115. LICENSING REQUIRED FOR TITLE AGENCIES AND TITLE AGENTS, EXCEPTIONS, NAME AND INFORMATION REQUEST REQUIREMENT FOR TITLE AGENCY — DEADLINE FOR COMPLIANCE WITH THIS SECTION — DELEGATION OF TITLE SEARCHES TO THIRD PARTY, RULES — VIOLATIONS, PENALTY. — 1. A person shall not act in the capacity of a title agency or title agent and a title insurer may not contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is a licensed title agency or title agent in this state.

2. An individual employed by a licensed title agency or title agent to whom the agency or agent delegates authority to act on that agency's or agent's behalf shall be either individually licensed or be named on the employing agent's license if such employee performs any of the functions defined in paragraph (a) of subdivision (25) of section 381.009. Each person named on the license shall possess all qualifications determined by the director to be appropriate. The director may adopt rules, regulations, and requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents, employees of either, and persons acting on behalf of title agencies or title agents. This subsection is not intended to include persons performing clerical functions.

3. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer requests in order to comply with reporting requirements of the director.

4. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

5. If the title agency or title agent delegates the title search to a third party, such as an abstract company, the agency or agent must first obtain proof that the third party is operating in compliance with rules and regulations established by the director and the third party shall provide the agency or agent and the insurer with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period. Each violation of this subsection is a class C violation as that term is defined in section 381.045.**]**

[381.118. EXAMINATION REQUIRED — EDUCATION REQUIREMENTS, EXEMPTIONS — APPROVED COURSES AND PROGRAMS — TEACHING CREDIT — CREDITS MAY BE CARRIED FORWARD — EXTENSIONS AND WAIVERS — CERTIFICATION TO DIRECTOR OF COMPLETION — NONRESIDENTS — RULES — FUNDS, DEPOSITING AND USE — FEES FOR LICENSE RENEWAL. — 1. Each title agent licensed to sell title insurance in this state, unless exempt pursuant to subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January first of the year next following the effective date of this chapter.

2. Subject to approval by the director, the courses or programs of instruction which shall be deemed to meet the director's standards for continuing educational requirements shall include, but not be limited to, the following:

(1) An insurance-related course taught by an accredited college or university or qualified instructor who has taught a course of insurance law at such institution;

(2) A course or program of instruction or seminar developed or sponsored by any authorized insurer, recognized agents' association or insurance trade association. A local agents' group may also be approved if the instructor receives no compensation for services;

(3) Courses approved for continuing legal education credit by the Missouri Bar.

3. A person teaching any approved course of instruction or lecturing at any approved seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar or program.

4. Excess classroom hours accumulated during any two-year period may be carried forward to the two-year period immediately following the two-year period in which the course, program or seminar was held.

5. For good cause shown, the director may grant an extension of time during which the educational requirements imposed by this section may be completed, but such extension of time shall not exceed the period of one calendar year. The director may grant an individual waiver of the mandatory continuing education requirement upon a showing by the licensee that it is not feasible for the licensee to satisfy the requirements prior to the renewal date. Waivers may be granted for reasons including, but not limited to:

(1) Serious physical injury or illness;

(2) Active duty in the armed services for an extended period of time;

(3) Residence outside the United States; or

(4) Licensee is at least seventy years of age and is currently licensed as a title agent.

6. Every person subject to the provisions of this section shall furnish in a form satisfactory to the director, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person. A filing fee shall be paid by the person furnishing the report as determined by the director to be necessary to cover the administrative cost related to the handling of such certification reports, subject to the limitations imposed in subsection 9 of this section.

7. The provisions of this section shall not apply to those natural persons holding or applying for a license to act as a title agent in Missouri who reside in a state that has enacted and implemented a mandatory continuing education law or regulation pertaining to title agents. However, those natural persons holding or applying for a Missouri agent license who reside in states which have no mandatory continuing education law or regulations shall be subject to all the provisions of this section to the same extent as resident Missouri title agents.

8. Rules necessary to implement and administer this section shall be promulgated by the director of the department of insurance, including, but not limited to, rules regarding the following:

(1) The insurance advisory board established by section 375.019, RSMo, shall be utilized by the director to assist the director in determining acceptable content of courses, programs and seminars to include classroom equivalency;

(2) Every applicant seeking approval by the director of a continuing education course pursuant to this section shall pay to the director a filing fee of fifty dollars per course, except that such total fee shall not exceed two hundred fifty dollars per year for any single applicant. Fees shall be waived for local agents' groups if the instructor receives no compensation for services. Such fee shall accompany any application form required by the director. Courses shall be approved for a period of no more than one year. Applicants holding courses intended to be offered for a longer period must reapply for approval;

(3) The director has the authority to determine the amount of the filing fee to be paid by title agents at the time of license renewal, which shall be set at an amount to produce revenue which shall not substantially exceed the cost of administering this section, but in no event shall such fee exceed ten dollars per biennial report filed.

9. All funds received pursuant to the provisions of this section shall be transmitted by the director of the department of insurance to the department of revenue for deposit in the state treasury to the credit of the department of insurance dedicated fund. All expenditures

necessitated by this section shall be paid from funds appropriated from the department of insurance dedicated fund by the legislature.

10. When a title agent pays his or her biennial renewal fee, such agent shall also furnish the written certification and filing fee required by this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**]**

[381.121. INVESTMENTS ALLOWED, TITLE PLANTS — INELIGIBLE INVESTMENTS, DISPOSAL OF. — 1. The deposit required by section 381.051 and the capital, surplus and unearned premium reserve of domestic title insurers shall be held in either cash or investments now or hereafter permitted to domestic life insurers with regard to their capital, reserve and surplus for reserve deposit.

2. A domestic title insurer may invest in title plants. For purposes of determining the financial condition of such title insurer, title plants will be treated as an asset valued at actual cost to the title insurer, not to exceed fifty percent of the surplus as to policyholders as shown on the most recent annual statement of the title insurer.

3. Any investment of a domestic title insurer acquired before September 28, 1987, and which under such sections, would be considered ineligible as an investment on that date, shall be disposed of within five years of September 28, 1987. The director, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurer or its policyholders, may extend the period for disposal of the investment for a reasonable time.**]**

[381.122. DIRECTOR AUTHORIZED TO INSPECT BOOKS AND RECORDS. — The director may during normal business hours examine, audit and inspect any and all books and records maintained by a title agency pursuant to this chapter.**]**

[381.125. AFFILIATED BUSINESS ARRANGEMENTS, DISCLOSURE REQUIRED, OWNERSHIP FINANCIAL INTEREST REPORTING, RESTRICTIONS. — 1. Whenever the business to be written constitutes affiliated business, prior to commencing the transaction, the title agency or title agent shall ensure that its customer has been provided with disclosure of the existence of the affiliated business arrangement and a written estimate of the charge or range of charges generally made for the title services provided by the title agency or agent.

2. The director may establish rules for use by all title agencies in the recording and reporting of the agency's owners and of the agency's ownership interests in other persons or businesses and of material transactions between the parties.

3. The director may require each title agency to file on forms prescribed by the director reports setting forth the names and addresses of those persons, if any, that have a financial interest in the agency and who the agency knows or has reason to believe are producers of title insurance business or associates of producers.

4. Nothing in this chapter shall be construed as prohibiting affiliated business arrangements in the provision of title insurance business so long as:

(1) The title agency, title agent or party making a referral constituting affiliated business, at or prior to the time of the referral, discloses the arrangement and, in connection with the referral, provides the person being referred with a written estimate of the charge or range of charges likely to be assessed and otherwise complies with the disclosure obligations of this section;

(2) The person being referred is not required to use a specified title insurance agency, agent or insurer; and

(3) The only thing of value that is received by the title agency, title agent or party making the referral, other than payments otherwise permitted, is a return on an ownership interest.

For purposes of this subsection, the terms "required use" and "return on an ownership interest" shall have the meaning accorded to them under the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Section 2607, as amended and Regulation X, 24 CFR Section 3500, et seq.

5. Each violation of any provision of this section is a class C violation as that term is defined in section 381.045.**]**

[381.131. AGENTS, FIDUCIARY DUTY. — Any person who shall be appointed or who shall act as title insurance agent or agency for any title insurance company within this state, or who shall, as title insurance agent or agency, solicit applications, deliver policies and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, as agent or agency, for a title insurance company doing business in this state, shall be held responsible in a trust or fiduciary capacity to the company for any money so collected or received by him for such company.**]**

[381.151. DIVISION OF PREMIUMS, ALLOWED WHEN. — Nothing in sections 381.011 to 381.241 shall be construed as prohibiting the division of premiums and charges between or among a title insurer and its title agent or agency, two or more title insurers, one or more title insurers and one or more title agents or agencies or two or more title agents or agencies, provided such division of premiums and charges does not constitute:

(1) An unlawful rebate or inducement under the provisions of sections 381.011 to 381.241; or

(2) Payment of a forwarding fee or finder's fee.**]**

[381.211. FORMS TO BE USED, INSURERS TO FILE COPIES WITH DIRECTOR. — Every title insurer shall file with the director copies of the following forms it proposes to use in this state, including:

(1) Title insurance polices;

(2) Standard form endorsements; and

(3) Preliminary reports, commitments, binders, or any other reports issued prior to the issuance of a title insurance policy.**]**

[381.221. PREMIUM TAX, PREMIUM INCOME DETERMINED. — For purposes of the premium tax imposed by sections 148.320 and 148.340, RSMo, the premium income received by a title insurer shall be one hundred percent of the amounts paid by or on behalf of the insured as "premiums" within the definition of that term contained in sections 381.011 to 381.241.**]**

[381.231. RULES, AUTHORITY, PROCEDURE. — In addition to any other powers granted under sections 381.011 to 381.241, the director may adopt rules or regulations to protect the interests of the public including, but not limited to, regulations governing sales practices, escrow, collection, settlement, closing procedures, policy coverage standards, rebates and inducements, controlled business, the approval of agency contracts, unfair trade practices and fraud, statistical plans for data collection, consumer education, any other consumer matters, the business of title insurance, or any regulations otherwise implementing or interpreting the provisions of sections 381.011 to 381.241. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]**

[381.241. INSPECTION OF RECORDS OF INSURER, DIRECTOR MAY EXAMINE — MAY HOLD HEARING, WHEN, EXTENT — MAY ORDER RATING SYSTEM INVALID. — 1. The director of insurance or his duly authorized representative may at any time and from time to time, inspect and examine the records, books and accounts of any title insurer, and may require such periodic and special reports from any title insurer, as may be reasonably necessary to enable the

director to satisfy himself that such title insurer is complying with the requirements of sections 381.011 to 381.241. No person shall be authorized to inspect and examine the records, books and accounts of any title insurer unless such person has five years experience in the title insurance business. It shall be the duty of the director at least once every four years to make or cause to be made an examination of every title insurer. The reasonable expense of any examination shall be paid by the title insurer.

2. The purpose of such examination is to enable the director to ascertain whether there is compliance with the provisions of sections 381.011 to 381.241. If as a result of such examination the director has reason to believe that any rate, rating plan or rating system made or used by an insurer does not meet the standards and provisions of sections 381.011 to 381.241, applicable to it, the director may hold a public hearing. Within a reasonable period of time, which shall be not less than ten days before the date of such hearing, he shall mail written notice specifying the matters to be considered at such hearing to every person, insurer or organization believed by him not to be in compliance with the provisions of sections 381.011 to 381.241.

3. If the director, after such hearing, for good cause finds that such rate, rating plan or rating system does not meet the provisions of sections 381.011 to 381.241, he shall issue an order specifying in what respects any such rate, rating plan or rating system fails to meet such provisions, and stating when, within a reasonable period of time, the further use of such rate, rating plan or rating system by the title insurer which is the subject of the examination shall be prohibited. A copy of such order shall be sent to such title insurer.**]**

[381.410. DEFINITIONS. — As used in sections 381.410 and 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", U.S. currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over sections 381.410 and 381.412;

(4) "Financial institution":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed pursuant to the Small Business Investment Act of 1958 (15 U.S.C. Section 661, et seq.), as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System pursuant to the Farm Credit Act of 1971 (12 U.S.C. Section 2000, et seq.), as amended, or any person which services loans secured by liens or mortgages on real property, which person may or may not maintain a servicing portfolio for such loans; or

(b) The following persons or entities if their principal place of business is in Missouri or a state which is contiguous to Missouri:

a. A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer; or

b. A person or entity acting as a mortgage loan company pursuant to court order;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar Association, or a person licensed under chapter 339, RSMo.**]**

[381.410. DEFINITIONS. — As used in this section and section 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, unless the settlement agent's primary regulator is another division in the department of economic development. When the settlement agent is regulated by such division, that division shall have jurisdiction over this section and section 381.412;

(4) "Financial institution":

(a) A person or entity doing business pursuant to the laws of this state or the United States relating to banks, trust companies, savings and loan associations or credit unions; or

(b) The following persons or entities if their principal place of business is in Missouri or outside Missouri, but within the St. Louis or Kansas City standard metropolitan statistical area:

a. A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar , or a person licensed under chapter 339, RSMo.**]**

[381.412. SETTLEMENT AGENTS, ACCEPTING FUNDS, RECORDATION, EXEMPTION — TITLE INSURER, DEPOSIT OF FUNDS — VIOLATION, FINE. — 1. A settlement agent who accepts funds of more than ten thousand dollars, but less than two million dollars, for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. The settlement agent shall record all security instruments for such real estate closing within three business days of such closing after receipt of such certified funds. A check:

(1) Drawn on an escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo;

(2) Drawn on an escrow account of a title insurer or title insurance agency licensed to do business in Missouri;

(3) Drawn on an agency of the United States of America, the state of Missouri or any county or municipality of the state of Missouri; or

(4) Drawn on an account by a financial institution; shall be exempt from the provisions of this section.

2. No title insurer, title insurance agency or title insurance agent, as defined in section 381.031, shall make any payment, disbursement or withdrawal in excess of ten thousand dollars from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement or withdrawal;

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. If the director finds that a settlement agent, title insurer, title insurance agency or title insurance agent has violated any provisions of this section, the director may assess a fine of not more than two thousand dollars for each violation, plus the costs of the investigation. Each separate transaction where certified funds are required shall constitute a separate violation. In determining a fine, the director shall consider the extent to which the violation was a knowing and willful violation, the corrective action taken by the settlement agent to ensure that the violation will not be repeated, and the record of the settlement agent in complying with the provisions of this section.**]**

[381.412. SETTLEMENT AGENTS, ACCEPTING FUNDS, EXEMPTION — TITLE INSURER, DEPOSIT OF FUNDS — VIOLATION, FINE. — 1. A settlement agent who accepts funds of more than ten thousand dollars for closing a sale of an interest in real estate shall require a buyer, seller or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check:

(1) Drawn on an escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo;

(2) Drawn on an escrow account of a title insurer or title insurance agency licensed to do business in Missouri;

(3) Drawn on an agency of the United States of America, the state of Missouri or any county or municipality of the state of Missouri; or

(4) Drawn on an account by a financial institution; shall be exempt from the provisions of this section.

2. No title insurer, title insurance agency or title insurance agent, as defined in section 381.009, shall make any payment, disbursement or withdrawal in excess of ten thousand dollars from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement or withdrawal;

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. If the director finds that a settlement agent, title insurer, title insurance agency or title insurance agent has violated any provisions of this section, the director may assess a fine of not more than two thousand dollars for each violation, plus the costs of the investigation. Each separate transaction where certified funds are required shall constitute a separate violation. In determining a fine, the director shall consider the extent to which the violation was a knowing and willful violation, the corrective action taken by the settlement agent to ensure that the violation will not be repeated, and the record of the settlement agent in complying with the provisions of this section.**]**

SECTION B. EFFECTIVE DATE. — The repeal and enactment of Sections 381.003 through 381.412 of Section A of this act is effective January 1, 2008.

Approved July 13, 2007

SB 81 [CCS HCS SB 81]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the city of Sullivan and the portion of the Sullivan C-2 School District located in Franklin County to levy a transient guest tax

AN ACT to repeal sections 67.1003, 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.837, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and to enact in lieu thereof nine new sections relating to the promotion of local tourism and economic development.

SECTION

A. Enacting clause.
67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
67.2500. Establishment of a district, where — definitions.
67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
67.2510. Alternative procedure for establishment of a district.
82.875. Police services sales tax — vote required — fund created, use of moneys (City of Independence).
89.010. Applicability of law — conflict with zoning provisions of another political subdivision, which to previal.
89.400. Commission to make recommendations to council on plats, when — conflict with zoning provisions of another political subdivsion,, which to prevail.
94.837. Transient guest tax (Canton, LaGrange, Edina, special charter cities).
67.2505. Formation of a district, name of, size — subdistricts authorized — procedure for establishing a district.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1003, 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.837, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.1003, 67.1360, 67.2500, 67.2505, 67.2510, 82.875, 89.010, 89.400, 94.837, to read as follows:

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county or (1) a county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third

class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand; (4) or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand; (5) or any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants**; (6) or any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants** may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county **through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-2006 between one thousand eight hundred and one thousand nine hundred**;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; **[**or**]**

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants; **or**

(32) Any city of the fourth classification with more than three thousand eight hundred but fewer than three thousand nine hundred inhabitants and located in any county of the first classification with more than thirty-nine thousand seven hundred but fewer than thirty-nine thousand eight hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS. — 1. **A theater, cultural arts, and entertainment district may be established in the manner provided in**

section 67.2505 by the governing body of any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this subsection, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**]** **such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, **infrastructure,** transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of **[**fifty**]** **twenty-five** contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district

with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing **and approval** of a petition pursuant to this section, the governing body of any city, town, or village described in this section **[**may**]** **shall** pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The

election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, **a theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2515 by** a circuit court with jurisdiction over any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this section, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) Any county of the first classification with more than one hundred four thousand six hundred but fewer than one hundred four thousand seven hundred inhabitants.

82.875. POLICE SERVICES SALES TAX — VOTE REQUIRED — FUND CREATED, USE OF MONEYS (CITY OF INDEPENDENCE). — 1. The governing body of any home rule city with more than one hundred thirteen thousand two hundred but fewer than one hundred thirteen thousand three hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one percent of the gross receipts of such retail sales, may be imposed in increments of one-eighth of one percent, and shall be imposed solely for the purpose of funding police services provided by the police department of the city. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "City Police Services Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the

calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

89.010. APPLICABILITY OF LAW — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVISION, WHICH TO PREVAIL. — 1. The provisions of sections 89.010 to 89.140 shall apply to all cities, towns and villages in this state.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

89.400. COMMISSION TO MAKE RECOMMENDATIONS TO COUNCIL ON PLATS, WHEN — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVSION,, WHICH TO PREVAIL. — 1. When the planning commission of any municipality adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical

elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

94.837. TRANSIENT GUEST TAX (CANTON, LAGRANGE, EDINA, SPECIAL CHARTER CITIES). — 1. The governing body of any city of the fourth classification with more than two thousand five hundred but fewer than two thousand six hundred inhabitants and located in any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, the governing body of any special charter city **[**with more than nine hundred fifty but fewer than one thousand fifty inhabitants**]**, and the governing body of any city of the fourth classification with more than one thousand two hundred but fewer than one thousand three hundred inhabitants and located in any county of the third classification without a township form of government and with more than four thousand three hundred but fewer than four thousand four hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall not be more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in ..... (name of city) at a rate of ..... (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

[67.2505. FORMATION OF A DISTRICT, NAME OF, SIZE — SUBDISTRICTS AUTHORIZED — PROCEDURE FOR ESTABLISHING A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct,

improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.**]**

Approved June 30, 2007

SB 82 [CCS HCS SCS SB 82]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies several provisions of law relating to salvage vehicles

AN ACT to repeal sections 301.010, 301.020, 301.030, 301.130, 301.140, 301.142, 301.144, 301.170, 301.177, 301.196, 301.200, 301.218, 301.221, 301.225, 301.227, 301.229, 301.280, 301.444, 301.550, 301.560, 301.567, 301.570, 301.640, 302.171, 302.302, 302.720, 304.022, 304.170, 407.730, 407.732, 407.815, RSMo, section 301.190 as enacted by house committee substitute for senate substitute no. 2 for senate committee substitute for senate bill no. 583, ninety-third general assembly, second regular session, section 301.190 as enacted by senate substitute for senate committee substitute for house bill no. 487 merged with senate bill no. 488, ninety-third general assembly, first regular session, section 301.566 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1288, ninety-second general assembly, second regular session, and section 301.566 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and to enact in lieu thereof thirty-three new sections relating to motor vehicles, with penalty provisions and an effective date for certain sections.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.010, 301.020, 301.030, 301.130, 301.140, 301.142, 301.144, 301.170, 301.177, 301.196, 301.200, 301.218, 301.221, 301.225, 301.227, 301.229, 301.280, 301.444, 301.550, 301.560, 301.567, 301.570, 301.640, 302.171, 302.302, 302.720, 304.022, 304.170, 407.730, 407.732, 407.815, RSMo, section 301.190 as enacted by house committee substitute for senate substitute no. 2 for senate committee substitute for senate bill no. 583, ninety-third general assembly, second regular session, section 301.190 as enacted by senate substitute for senate committee substitute for house bill no. 487 merged with senate bill no. 488, ninety-third general assembly, first regular session, section 301.566 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1288, ninety-second general assembly, second regular session, and section 301.566 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 301.010, 301.020, 301.030, 301.130, 301.140, 301.142 301.144, 301.190, 301.196, 301.200, 301.218, 301.221, 301.225, 301.227, 301.229, 301.280, 301.444, 301.550, 301.560, 301.566, 301.567, 301.569, 301.570, 301.640, 301.2998, 302.171, 302.302, 302.720, 304.022, 304.170, 407.730, 407.732, and 407.815, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation.

Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a **[**fifty-mile**] one hundred-mile** radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a **[**fifty-mile**] one hundred-mile** radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor

vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) **[**Has been**] Was** damaged **during a year that is no more than six years after the manufacturer's model year designation for such vehicle** to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds **[**seventy-five**] eighty** percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim **[**for loss due to damage or theft**]**;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, **or damage as a result of hail,** or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(54) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels,

cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(55) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(56) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(57) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(58) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(59) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(60) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(61) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(62) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(63) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(64) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(65) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(66) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway,

road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(67) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.020. APPLICATION FOR REGISTRATION OF MOTOR VEHICLES, CONTENTS — CERTAIN VEHICLES, SPECIAL PROVISIONS — PENALTY FOR FAILURE TO COMPLY — OPTIONAL BLINDNESS ASSISTANCE DONATION — DONATION TO ORGAN DONOR PROGRAM PERMITTED. — 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, or prior salvage as referenced in section 301.573, the owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to subsection 9 of section 301.190. If an insurance company **[**which**]** pays a claim on a salvage vehicle as defined in section 301.010 and the **[**insured is retaining ownership of**]** **owner retains** the vehicle, as prior salvage, the vehicle shall only be required to meet the examination requirements under and pursuant to subsection 10 of section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not defined as major component parts shall

accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such vehicle.

5. Every insurance company **[**which**]** **that** pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 or **[**which**]** **that** pays a claim on a salvage vehicle as defined in section 301.010 and the **[**insured**]** **owner** is retaining **[**ownership of**]** the vehicle, shall in writing notify **[**the claimant, if he is**]** the owner of the vehicle, and **in a first party claim,** the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection 4 of this section to obtain a prior salvage motor vehicle certificate of ownership or documents and fees as otherwise required by law to obtain a salvage certificate of ownership, from the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such **[**claimant**]** **owner**, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

8. An applicant for registration may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund as established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

301.030. MOTOR VEHICLE REGISTRATION PERIODS — LOCAL COMMERCIAL PLATES, REQUIREMENTS — PRORATION AUTHORIZED FOR LARGER COMMERCIAL VEHICLES. — 1. The director shall provide for the retention of license plates by the owners of motor vehicles, other than commercial motor vehicles, and shall establish a system of registration on a monthly series basis to distribute the work of registering motor vehicles as uniformly as practicable

throughout the twelve months of the calendar year. For the purpose of assigning license plate numbers, each type of motor vehicle shall be considered a separate class. Commencing July 1, 1949, motor vehicles, other than commercial motor vehicles, shall be registered for a period of twelve consecutive calendar months. There are established twelve registration periods, each of which shall start on the first day of each calendar month of the year and shall end on the last date of the twelfth month from the date of beginning.

2. Motor vehicles, other than commercial motor vehicles, operated for the first time upon the public highways of this state, to and including the fifteenth day of any given month, shall be subject to registration and payment of a fee for the twelve-month period commencing the first day of the month of such operation; motor vehicles, other than commercial motor vehicles, operated for the first time on the public highways of this state after the fifteenth day of any given month shall be subject to registration and payment of a fee for the twelve-month period commencing the first day of the next following calendar month.

3. All commercial motor vehicles and trailers, except those licensed under section 301.035 and those operated under agreements as provided for in sections 301.271 to 301.279, shall be registered either on a calendar year basis or on a prorated basis as provided in this section. The fees for commercial motor vehicles, trailers, semitrailers, and driveaway vehicles, other than those to be operated under agreements as provided for in sections 301.271 to 301.279 shall be payable not later than the last day of February of each year, except when such vehicle is licensed between April first and July first the fee shall be three-fourths the annual fee, when licensed between July first and October first the fee shall be one-half the annual fee and when licensed on or after October first the fee shall be one-fourth the annual fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Local commercial motor vehicle license plates **[**shall**]** **may** also be so stamped, marked or designed as to indicate they are to be used only on local commercial motor vehicles and, in addition to such stamp, mark or design, the letter "F" shall also be displayed on local commercial motor vehicle license plates issued to motor vehicles used for farm or farming transportation operations as defined in section 301.010 in the manner prescribed by the advisory committee established in section 301.129. In addition, all commercial motor vehicle license plates **[**shall**]** **may** be so stamped or marked with a letter, figure or other emblem as to indicate the gross weight for which issued.

4. The director shall, upon application, issue registration and license plates for nine thousand pounds gross weight for property-carrying commercial motor vehicles referred to herein, upon payment of the fees prescribed for twelve thousand pounds gross weight as provided in section 301.057.

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the **[**letter "D" preceding the number**] letters and numbers as prescribed by section 301.560**, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle **or trailer** in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to

pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. **[**Commencing**]** **No later than** January 1, 2009, the director of revenue shall **[**cause to be reissued**]** **commence the reissuance of** new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire **[**between January 1, 2009, and December 31, 2011**]** **during the period of reissuance**, applicants for registration of trailers or semitrailers with license plates that expire **[**between January 1, 2009, and December 31, 2011,**]** **during the period of reissuance** and applicants for registration of vehicles that are to be issued new license plates **during the period of reissuance** shall pay **[**an additional fee, based on the actual cost of the reissuance, to cover**]** the cost of the **[**newly reissued**]** plates required by this subsection. The additional **[**fee**]** **cost** prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection.

301.140. PLATES REMOVED ON TRANSFER OR SALE OF VEHICLES — USE BY PURCHASER — REREGISTRATION — USE OF DEALER PLATES — TEMPORARY PERMITS, FEES — CREDIT, WHEN. — 1. Upon the transfer of ownership of any motor vehicle or trailer, the certificate of registration and the right to use the number plates shall expire and the number plates shall be removed by the owner at the time of the transfer of possession, and it shall be unlawful for any person other than the person to whom such number plates were originally issued to have the same in his or her possession whether in use or not; except that the buyer of a motor vehicle or trailer who trades in a motor vehicle or trailer may attach the license plates from the traded-in motor vehicle or trailer to the newly purchased motor vehicle or trailer. The operation of a motor vehicle with such transferred plates shall be lawful for no more than thirty days. As used in this

subsection, the term "trade-in motor vehicle or trailer" shall include any single motor vehicle or trailer sold by the buyer of the newly purchased vehicle or trailer, as long as the license plates for the trade-in motor vehicle or trailer are still valid.

2. In the case of a transfer of ownership the original owner may register another motor vehicle under the same number, upon the payment of a fee of two dollars, if the motor vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that originally registered. When such motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, applicant shall pay a transfer fee of two dollars and a pro rata portion for the difference in fees. When such vehicle is of less horsepower, gross weight or (in case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, applicant shall not be entitled to a refund.

3. License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, the applicant shall not be entitled to a refund.

4. Upon the sale of a motor vehicle or trailer by a dealer, a buyer who has made application for registration, by mail or otherwise, may operate the same for a period of thirty days after taking possession thereof, if during such period the motor vehicle or trailer shall have attached thereto, in the manner required by section 301.130, number plates issued to the dealer. Upon application and presentation of satisfactory evidence that the buyer has applied for registration, a dealer may furnish such number plates to the buyer for such temporary use. In such event, the dealer shall require the buyer to deposit the sum of ten dollars and fifty cents to be returned to the buyer upon return of the number plates as a guarantee that said buyer will return to the dealer such number plates within thirty days. The director shall issue a temporary permit **[**or paper plate**]** authorizing the operation of a motor vehicle or trailer by a buyer for not more than thirty days of the date of purchase.

5. The temporary permit **[**or paper plate**]** shall be made available by the director of revenue and may be purchased from the department of revenue upon proof of purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer, or from a dealer upon purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer. The director shall make temporary **[**plates or**]** permits available to registered dealers in this state **or authorized agents of the department of revenue** in sets of ten **[**plates or**]** permits. The fee for the temporary permit **[**or plate**]** shall be seven dollars and fifty cents for each permit or plate issued. No dealer **or authorized agent** shall charge more than seven dollars and fifty cents for each permit issued. The permit **[**or plate**]** shall be valid for a period of thirty days from the date of purchase of a motor vehicle or trailer, or from the date of sale of the motor vehicle or trailer by a dealer for which the purchaser obtains a permit **[**or plate**]** as set out above.

6. The permit **[**or plate**]** shall be issued on a form prescribed by the director and issued only for the applicant's use in the operation of the motor vehicle or trailer purchased to enable the applicant to legally operate the vehicle while proper title and registration plate are being obtained, and shall be displayed on no other vehicle. **Temporary** permits **[**or paper plates**]** issued pursuant to this section shall not be transferable or renewable and shall not be valid upon issuance of

proper registration plates for the motor vehicle or trailer. The director shall determine the size and numbering configuration, construction, and color of the permit **[**and plate**]**.

7. The dealer or authorized agent shall insert the date of issuance and expiration date, year, make, and manufacturer's number of vehicle on the **[**paper plate or**]** permit when issued to the buyer. The dealer shall also insert such dealer's number on the **[**paper plate**]** **permit**. Every dealer that issues a temporary permit **[**or paper plate**]** shall keep, for inspection of proper officers, a correct record of each permit **[**or plate**]** issued by recording the permit or plate number, buyer's name and address, year, make, manufacturer's **vehicle identification** number **[**of vehicle**]** on which the permit **[**or plate**]** is to be used, and the date of issuance.

8. Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle. Such credit shall be granted based upon the date the license plates are surrendered. No refunds shall be made on the unused portion of any license plates surrendered for such credit.

301.142. DEFINITIONS — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — PHYSICIAN STATEMENTS, REQUIREMENTS — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS. — 1. As used in sections 301.141 to 301.143, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Other authorized health care practitioner" includes advanced practice registered nurses licensed pursuant to chapter 335, RSMo, chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled", a natural person who is blind, as defined in section 8.700, RSMo, or a natural person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

(a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or

(b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(c) Is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(d) Uses portable oxygen; or

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

(7) "Temporarily disabled person", a disabled person as defined in this section whose disability or incapacity is expected to last no more than one hundred eighty days**;**

(8) "Temporary windshield placard", a placard to be issued to persons who are temporarily disabled persons as defined in this section, certification of which shall be indicated on the physician's statement;

(9) "Windshield placard", a placard to be issued to persons who are physically disabled as defined in this section, certification of which shall be indicated on the physician's statement.

2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to primarily transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, a current physician's statement which has been issued within ninety days proceeding the date the application is made and proof of compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "DISABLED" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or

collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "DISABLED" as prescribed in this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The **[**fee for each removable windshield placard shall be four dollars and the**]** removable windshield placard shall be renewed every **[**two**]** **four** years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard may be issued to an applicant who has not been issued disabled person license plates**[**, at the appropriate fee**]**.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to this section is supplied to the director of revenue at the time of renewal.

13. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician or other authorized health care practitioner which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or

collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days. **The director may stagger the requirement of a physician's statement on all renewals for the initial implementation of a four-year period.**

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of nursing established in section 335.021, RSMo, with respect to physician's statements signed by advanced practice registered nurses, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. If such applicant obtaining a disabled license plate or placard presents proof of disability in the form of a statement from the United States Veterans' Administration verifying that the person is permanently disabled, the applicant shall be exempt from the four-year certification requirement of this subsection for renewal of the plate or placard. Initial applications shall be accompanied by the physician's statement required by this section. **Notwithstanding the provisions of paragraph (f) of subdivision (4) of subsection 1 of this section, any person seventy-five years of age or older who provided the physician's statement with the original application shall not be required to provide a physician's statement for the purpose of renewal of disabled persons license plates or windshield placards.**

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director shall, in cooperation with the boards which shall assist the director, establish a list of all Missouri physicians and other authorized health care practitioners and of any other information necessary to administer this section.

20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit a statement stating this fact, in addition to the physician's statement. The statement shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this statement with each application for license plates. No person shall willingly or

knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420.

21. The director of revenue shall retain all physicians' statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of the decedent or such other person who may come into or otherwise take possession of the disabled license plates or disabled windshield placard shall return the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class B misdemeanor.

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be four dollars.

27. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE OR OFFENSIVE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES, PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any person desiring to obtain a special personalized license plate for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void. No two owners shall be

issued identical plates. An owner shall make a new application and pay a new fee each year such owner desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. Upon application for a personalized plate by the owner of a motor vehicle for which the owner has no registration plate available for transfer as prescribed by section 301.140, the director shall issue a temporary permit authorizing the operation of the motor vehicle until the personalized plate is issued.

3. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. The director may recall any personalized license plates, including those issued prior to August 28, 1992, if the director determines that the plates are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. Where the director recalls such plates pursuant to the provisions of this subsection, the director shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established pursuant to this section. The director shall not apply the provisions of this statute in a way that violates the Missouri or United States Constitutions as interpreted by the courts with controlling authority in the state of Missouri. The primary purpose of motor vehicle **[**licence**]** **license** plates is to identify motor vehicles. Nothing in the issuance of a personalized license plate creates a designated or limited public forum. Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

4. The director may also establish categories of special license plates from which license plates may be issued. Any such person, other than a person exempted from the additional fee pursuant to subsection 7 of this section, that desires a personalized special license plate from any such category shall pay the same additional fee and make the same kind of application as that required by subsection 1 of this section, and the director shall issue such plates in the same manner as other personalized special license plates are issued.

5. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, except for a person exempted from the additional fee pursuant to subsection 7 of this section, personalized special license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant with the words "AMATEUR RADIO" in place of the words "SHOW-ME STATE". The application shall be accompanied by a statement stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant. An owner making a new application and paying a new fee to retain an amateur radio plate may request a replacement plate with the words "AMATEUR RADIO" in place of the words "SHOW-ME STATE". If application is made to retain a plate that is three years old or older, the replacement plate shall be issued upon the payment of required fees.

6. Notwithstanding any other provision to the contrary, any business that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the **license** fees presently required of a manufacturer, distributor, or dealer in **[**subsection 1 of section 301.253**]** **section 301.560**. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the **repossessed** motor vehicle or trailer.

7. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for

motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of **[**one hundred dollars before November 1, 2003, and not to exceed a total of**]** two hundred dollars **[**on or after November 1, 2003, shall be imposed**]**, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which **[**he**]** **the person** should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been **[**issued as herein**]** **applied for as** provided **in this section**.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of

revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund. **If the vehicle is also to be registered in Missouri, the safety inspection required in chapter 307, RSMo, and the emissions inspection required under chapter 643, RSMo, shall be completed and the fees required by section 307.365, RSMo, and section 643.315, RSMo, shall be charged to the owner.**

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri or as required by section 301.020, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety inspection required in chapter 307, RSMo, and the emissions inspection required under chapter 643, RSMo, shall be completed and only the fees required by section 307.365, RSMo, and section 643.315, RSMo, shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, **[**or**]** specially constructed motor vehicle, **or prior salvage vehicle,** the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation. **The absence of any prior designation shall not relieve a transferor of the duty to exercise due diligence with regard to such certificate of ownership prior to the transfer of a certificate. If a transferor exercises any due diligence with regard to a certificate of ownership, the legal transfer of a certificate of ownership without any designation that is subsequently discovered to have or should have had a designation shall be a transfer free and clear of any liabilities of the transferor associated with the missing designation.**

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles.

The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

[301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's

title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of one hundred dollars before November 1, 2003, and not to exceed a total of two hundred dollars on or after November 1, 2003, shall be imposed, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which he should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The

applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri or as required by section 301.020, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety and emissions inspections required in chapter 307, RSMo, shall be completed and only the fees required by sections 307.365 and 307.366, RSMo, shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, or specially constructed motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the

current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles.

The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.**]**

301.196. TRANSFERORS OF INTEREST IN MOTOR VEHICLES OR TRAILERS, NOTICE TO REVENUE, WHEN, FORM — EXCEPTIONS. — 1. Beginning January 1, 2006, except as otherwise provided in this section, the transferor of an interest in a motor vehicle or trailer listed on the face of a Missouri title, excluding salvage titles and junking certificates, shall notify the department of revenue of the transfer within thirty days of the date of transfer. The notice shall be in a form determined by the department by rule and shall contain:

(1) A description of the motor vehicle or trailer sufficient to identify it;

(2) The vehicle identification number of the motor vehicle or trailer;

(3) The name and address of the transferee;

(4) The date of birth of the transferee, unless the transferee is not a natural person;

(5) The date of the transfer or sale;

(6) The purchase price of the motor vehicle or trailer, if applicable;

(7) The number of the transferee's drivers license, unless the transferee does not have a drivers license;

(8) The printed name and signature of the transferee;

(9) Any other information required by the department by rule.

2. For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor. Repossession by a creditor shall not be considered a transfer of ownership requiring such notice.

3. The requirements of this section shall not apply to transfers when there is no complete change of ownership interest or upon award of ownership of a motor vehicle or trailer made by court order, or transfers of ownership of a motor vehicle or trailer to or between vehicle dealers, **or transfers of ownership of a motor vehicle or trailer to an insurance company due to a theft or casualty loss,** or transfers of beneficial ownership of a motor vehicle owned by a trust.

4. Notification under this section is only required for transfers of ownership that would otherwise require registration and an application for certificate of title in this state under section 301.190, and is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle.

5. Retail sales made by licensed dealers including sales of new vehicles shall be reported pursuant to the provisions of section 301.280.

301.200. SALES BY DEALERS. — 1. In the case of dealers, a **[**separate**]** certificate of ownership**[**, either of such dealer's immediate vendor, or of the dealer himself,**]** **or proof that a dealer has applied for a certificate of ownership or that a prior lien has been satisfied by the dealer** shall be required in the case of each motor vehicle in his possession, and the director of revenue shall determine the form in which application for such certificates of ownership and assignments shall be made, in case forms differing from those used for individuals are, in his judgment, reasonably required; provided, however, that no such certificates shall be required in the case of new motor vehicles or trailers sold by manufacturers to dealers.

2. Dealers shall execute and deliver manufacturer's statements of origin in accordance with forms prescribed by the director of revenue for all new cars sold by them. On the presentation of a manufacturer's statement of origin, executed in the form prescribed by the director of revenue, by a manufacturer or a dealer for a new car sold in this state, a certificate of ownership shall be issued.

3. Each certificate of ownership issued by the department of revenue shall contain space for four assignments. On all certificates of ownership containing fewer than four assignment spaces, the director shall prescribe a secure document for use in making a fourth assignment by a dealer. All secure documents for assignments which are spoiled shall be marked "void" and shall be returned by the dealer to the department of revenue at the end of each month.

301.218. LICENSES REQUIRED FOR CERTAIN BUSINESSES — BUYERS AT SALVAGE POOL OR SALVAGE DISPOSAL SALE, REQUIREMENTS — RECORDS TO BE KEPT OF SALES BY OPERATOR. — 1. No person shall, except as an incident to the sale, repair, rebuilding or servicing of vehicles by a licensed franchised motor vehicle dealer carry on or conduct the following business unless licensed to do so by the department of revenue under sections 301.217 to 301.229:

(1) Selling used parts of or used accessories for vehicles as a used parts dealer, as defined in section 301.010;

(2) Salvaging, wrecking or dismantling vehicles for resale of the parts thereof as a salvage dealer or dismantler, as defined in section 301.010;

(3) Rebuilding and repairing four or more wrecked or dismantled vehicles in a calendar year as a rebuilder or body shop, as defined in section 301.010;

(4) Processing scrapped vehicles or vehicle parts as a mobile scrap processor, as defined in section 301.010.

2. Sales at a salvage pool or a salvage disposal sale shall be open only to and made to persons **actually engaged in and** holding a current license under sections 301.217 to 301.221 **[**as a salvage dealer and dismantler and actually engaged in that business. Such persons must have and present a separate buyer's identification card issued by the department of revenue to buy at a salvage pool or salvage disposal sale. If the prospective purchasers are not engaged in such business in Missouri but are in some other state, then they shall submit a fee of twenty-five dollars and must furnish proof of licensure or nonrequirement therefor from their state to the director of revenue who shall issue a buyer's identification card after verifying that the prospective purchaser is entitled to have the same in order to buy salvage vehicles. The director of revenue shall adopt rules for criteria and requirements for out of state, prospective purchasers to meet in order to be issued a buyer's identification card**]** **and 301.550 to 301.573 or any person from another state or jurisdiction who is legally allowed in his or her state of domicile to purchase for resale, rebuild, dismantle, crush, or scrap either motor vehicles or salvage vehicles, and to persons who reside in a foreign country that are purchasing salvage vehicles for export outside of the United States**. Operators of salvage pools or salvage disposal sales shall keep a record, for three years, of sales of salvage vehicles with the purchasers' name and address, and the year, make, and vehicle identification number for each vehicle. These records shall be open for inspection as provided in section 301.225. **Such records shall be submitted to the department on a quarterly basis.**

3. **The seller of a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States at a salvage pool or a salvage disposal sale shall:**

(1) Stamp on the face of the title so as not to obscure any name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) Stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license, name of the salvage pool, or the name of the governmental entity, as applicable.

The words "FOR EXPORT ONLY" required under subdivisions (1) and (2) of this subsection shall be at least two inches wide and clearly legible. Copies of the stamped titles shall be forwarded to the department.

4. The director of revenue shall issue a separate license for each kind of business described in **subsection 1 of** this section, to be entitled and designated as either "used parts dealer"; "salvage dealer or dismantler"; "rebuilder or body shop"; or "mobile scrap processor" license.

301.221. APPLICATION TO BE SUBMITTED, CONTENTS, REQUIREMENTS TO OBTAIN LICENSE — FEE. — 1. The department shall file each application received by it with the required fee, and when satisfied that the applicant, if an individual, or each of the partners or principal officers of the applicant, if a partnership or a corporation, is of good moral character and that the applicant, so far as can be ascertained, has complied and will comply with the provisions of sections 301.217 to 301.229 and the laws of this state relating to registration of and certificates of title of vehicles, shall issue to the applicant a license to carry on and conduct the kind of businesses, enumerated in section 301.218, specified in the application at the address therein specified, until the next license renewal date.

2. When the application is being made for licensure as a salvage dealer, **the applicant shall obtain** a certification by a uniformed member **or authorized or designated employee** of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of salvage is in the metropolitan area where the certifying metropolitan police officer is employed. An applicant shall have a bona fide established place of business which shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for:

(1) Selling used parts of or used accessories for vehicles; or

(2) Salvaging, wrecking or dismantling vehicles for resale of the parts thereof; or

(3) Rebuilding and repairing wrecked or dismantled vehicles; or

(4) Processing scrapped vehicles or vehicle parts.

3. The applicant's place of business shall be a place wherein the public may contact the owner or operator, in person or by telephone, at any reasonable time, and wherein shall be kept and maintained the books, records, files, tools, equipment and other matters required and necessary to conduct the business.

4. The application shall include a photograph, not to exceed eight inches by ten inches, showing the building and business premises and shall accompany the initial application but will not be required for subsequent renewals unless substantial changes have been made to the building or business premises.

301.225. LICENSEES TO MAINTAIN RECORDS — INSPECTION OF PREMISES. — Every person licensed or required to be licensed shall maintain for three years on vehicles not more than seven years old a record of:

(1) Every vehicle or used transmission, rear end, cowl, frame, body, front end assembly or engine of or for a vehicle received or acquired by him, its description and identifying number,

if any, the date of its receipt or acquisition, and the name and address of the person from whom received or acquired;

(2) Every vehicle wrecked, dismantled or disposed of by him, and the date of its wrecking or dismantling and, if sold to a scrap metal operator, the operator's name and address.

Every such record shall be retained by the person licensed or required to be licensed at his principal place of business and shall be open to inspection by any representative of the department, member **or authorized or designated employee** of the Missouri highway patrol, or any police officer during reasonable business hours. Members of the patrol or any police officer may inspect the premises of every person licensed or required to be licensed at any time that business is being conducted or work is being performed, whether or not open to the public to enforce the provisions of sections 301.217 to 301.229.

301.227. SALVAGE CERTIFICATE OF TITLE MANDATORY OR OPTIONAL, WHEN — ISSUANCE, FEE — JUNKING CERTIFICATE ISSUED OR RESCINDED, WHEN. — 1. Whenever a vehicle is sold for salvage, dismantling or rebuilding, the purchaser shall forward to the director of revenue within ten days the certificate of ownership or salvage certificate of title and the proper application and fee of eight dollars and fifty cents, and the director shall issue a negotiable salvage certificate of title to the purchaser of the salvaged vehicle. **[**On vehicles not more than seven years old, it shall be mandatory that the purchaser apply for a salvage title, but on vehicles over seven years old, application for a salvage title shall be optional on the part of the purchaser.**]** **On vehicles purchased during a year that is no more than six years after the manufacturer's model year designation for such vehicle, it shall be mandatory that the purchaser apply for a salvage title. On vehicles purchased during a year that is more than six years after the manufacturer's model year designation for such vehicle, then application for a salvage title shall be optional on the part of the purchaser.** Whenever a vehicle is sold for destruction and a salvage certificate of title, junking certificate, or certificate of ownership exists, the seller, if licensed under sections 301.217 to 301.221, shall forward the certificate to the director of revenue within ten days, with the notation of the date sold for destruction and the name of the purchaser clearly shown on the face of the certificate.

2. Whenever a vehicle is classified as "junk", as defined in section 301.010, the purchaser may forward to the director of revenue the salvage certificate of title or certificate of ownership and the director shall issue a negotiable junking certificate to the purchaser of the vehicle. The director may also issue a junking certificate to a possessor of a vehicle manufactured twenty-six years or more prior to the current model year who has a bill of sale for said vehicle but does not possess a certificate of ownership, provided no claim of theft has been made on the vehicle and the highway patrol has by letter stated the vehicle is not listed as stolen after checking the registration number through its nationwide computer system. Such certificate may be granted within thirty days of the submission of a request.

3. Upon receipt of a properly completed application for a junking certificate, the director of revenue shall issue to the applicant a junking certificate which shall authorize the holder to possess, transport, or, by assignment, transfer ownership in such parts, scrap or junk, and a certificate of title shall not again be issued for such vehicle; except that, the initial purchaser shall, within ninety days, be allowed to rescind his application for a junking certificate by surrendering the junking certificate and apply for a salvage certificate of title in his name. The seller of a vehicle for which a junking certificate has been applied for or issued shall disclose such fact in writing to any prospective buyers before sale of such vehicle; otherwise the sale shall be voidable at the option of the buyer.

4. No scrap metal operator shall acquire or purchase a motor vehicle or parts thereof without, at the time of such acquisition, receiving the original certificate of title or salvage certificate of title or junking certificate from the seller of the vehicle or parts, unless the seller is a licensee under sections 301.219 to 301.221.

5. All titles and certificates required to be received by scrap metal operators from nonlicensees shall be forwarded by the operator to the director of revenue within ten days of the receipt of the vehicle or parts.

6. The scrap metal operator shall keep a record, for three years, of the seller's name and address, the salvage business license number of the licensee, date of purchase, and any vehicle or parts identification numbers open for inspection as provided in section 301.225.

7. Notwithstanding any other provision of this section, a motor vehicle dealer as defined in section 301.550 and licensed under the provisions of sections 301.550 to 301.572 may negotiate one reassignment of a salvage certificate of title on the back thereof.

8. Notwithstanding the provisions of subsection 1 of this section, an insurance company which settles a claim for a stolen vehicle **may apply for and** shall be issued a negotiable salvage certificate of title without the payment of any fee upon proper application within thirty days after settlement of the claim for such stolen vehicle. However, if the insurance company upon recovery of a stolen vehicle determines that the stolen vehicle has not sustained damage to the extent that the vehicle would have otherwise been declared a salvage vehicle pursuant to subdivision (51) of section 301.010, then the insurance company may have the vehicle inspected by the Missouri state highway patrol, or other law enforcement agency authorized by the director of revenue, in accordance with the inspection provisions of subsection 9 of section 301.190. Upon receipt of title application, applicable fee, the completed inspection, and the return of any previously issued negotiable salvage certificate, the director shall issue an original title with no salvage **or prior salvage** designation. Upon the issuance of an original title the director shall remove any indication of the negotiable salvage title previously issued to the insurance company from the department's electronic records.

301.229. PENALTIES — DIRECTOR OF REVENUE TO ENFORCE PROVISIONS. — 1. Anyone who violates any provision of sections 301.217 to 301.229 is guilty of a class A misdemeanor and, upon conviction, shall be punished as provided by law.

2. The director of revenue or his **or her** designated representative**, including members or authorized or designated employees of the Missouri highway patrol** shall administer and enforce the provisions of sections 301.217 to 301.229 and may develop, prescribe and issue any forms, notices or other written documents in order to enforce such authority and to ensure that every person licensed or required to be licensed pursuant to sections 301.217 to 301.229 is in compliance with sections 301.217 to 301.229.

301.280. DEALERS AND GARAGE KEEPERS, SALES REPORT REQUIRED — UNCLAIMED VEHICLE REPORT REQUIRED, CONTENTS — ALTERATION OF VEHICLE IDENTIFICATION NUMBER, EFFECT. — 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. The odometer reading is not required when reporting the sale of any motor vehicle that is ten years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all thirty-day temporary permits, without exception, shall be recorded in the appropriate space on the dealer's monthly sales report by recording the complete permit number issued on the motor vehicle or trailer sale listed. The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be

submitted for that month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. **[**Beginning January 1, 2006, the monthly sales report required by this subsection may be filed electronically. Beginning January 1, 2007,**]** Every vehicle dealer selling twenty or more vehicles a month shall file the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for three years and be open for inspection by law enforcement officials**, members or authorized or designated employees of the Missouri highway patrol,** and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

301.444. FIREFIGHTERS, SPECIAL LICENSES FOR CERTAIN VEHICLES — FEE. — 1. **[**Any person, as defined in subsection 3 of this section, may apply for special license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The firefighter memorial foundation of Missouri hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section.

2. Upon application and payment of a one-time twenty-five dollar emblem-use contribution to the firefighter memorial foundation of Missouri, the foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the department of revenue at the time of registration of a motor vehicle.

3. As used in this section, the term "person" shall mean:

(1) A director of a fire protection district;

(2) Persons compensated, partially compensated, or volunteer members of any fire department, fire protection district, or voluntary fire protection association of this state;

(3) A person wounded in the line of duty as a firefighter; or

(4) A surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a firefighter.

4. Upon presentation of the emblem-use authorization statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the firefighter memorial foundation of Missouri and the word "FIREFIGHTER" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

5. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.**] Owners or a joint owner of motor vehicles who are residents of the state of Missouri, and who are directors of a fire protection district or who are compensated, partially compensated, or volunteer members of any fire department, fire protection district, or voluntary fire protection association in this state, upon application accompanied by affidavit as prescribed in this section, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of a fee as prescribed in this section, shall be issued a set of license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The license plates shall be inscribed with a variation of the Maltese cross that signifies the universally recognized symbol for firefighters. In addition, upon such set of license plates shall be inscribed, in lieu of the words "Show-me State", the word "FIREFIGHTER". Such license plates shall be made with fully reflective material, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.**

2. Applications for license plates issued under this section shall be made to the director of revenue and shall be accompanied by an affidavit stating that the applicant is a person described in subsection 1 of this section. Any person who is lawfully in possession of such plates who resigns, is removed, or otherwise terminates or is terminated from his association with such fire department, fire protection district, or voluntary fire protection association shall return such special plates to the director within fifteen days.

3. An additional annual fee equal to that charged for personalized license plates in section 301.144 shall be paid to the director of revenue for the issuance of the license plates provided for in this section.

301.550. DEFINITIONS — CLASSIFICATION OF DEALERS. — 1. The definitions contained in section 301.010 shall apply to sections 301.550 to 301.573, and in addition as used in sections 301.550 to 301.573, the following terms mean:

(1) "Boat dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the

sale of any vessel or vessel trailer, whether or not the vessel or vessel trailer is owned by such person. The sale of six or more vessels or vessel trailers or both in any calendar year shall be required as evidence that such person is eligible for licensure as a boat dealer under sections 301.550 to 301.573. The boat dealer shall demonstrate eligibility for renewal of his license by selling six or more vessels or vessel trailers or both in the prior calendar year while licensed as a boat dealer pursuant to sections 301.550 to 301.573;

(2) "Boat manufacturer", any person engaged in the manufacturing, assembling or modification of new vessels or vessel trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of vessels or vessel trailers;

(3) "Department", the Missouri department of revenue;

(4) "Director", the director of the Missouri department of revenue;

(5) **"Emergency vehicles", motor vehicles used as ambulances, law enforcement vehicles, and fire fighting and assistance vehicles;**

(6) "Manufacturer", any person engaged in the manufacturing, assembling or modification of new motor vehicles or trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of motor vehicles or accessories for motor vehicles;

[(6)**]** **(7)** "Motor vehicle broker", a person who holds himself out through solicitation, advertisement, or otherwise as one who offers to arrange a transaction involving the retail sale of a motor vehicle, and who is not:

(a) A dealer, or any agent, or any employee of a dealer when acting on behalf of a dealer;

(b) A manufacturer, or any agent, or employee of a manufacturer when acting on behalf of a manufacturer;

(c) The owner of the vehicle involved in the transaction; or

(d) A public motor vehicle auction or wholesale motor vehicle auction where buyers are licensed dealers in this or any other jurisdiction;

[(7)**]** **(8)** "Motor vehicle dealer" or "dealer", any person who, for commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, or who offers or attempts to sell or negotiates the sale of motor vehicles or trailers whether or not the motor vehicles or trailers are owned by such person; provided, however, an individual auctioneer or auction conducted by an auctioneer licensed pursuant to chapter 343, RSMo, shall not be included within the definition of a motor vehicle dealer. The sale of six or more motor vehicles or trailers in any calendar year shall be required as evidence that such person is engaged in the motor vehicle business and is eligible for licensure as a motor vehicle dealer under sections 301.550 to 301.573**. Any motor vehicle dealer licensed before August 28, 2007, shall be required to meet the minimum calendar year sales of six or more motor vehicles provided the dealer can prove the business achieved, cumulatively, six or more sales per year for the preceding twenty-four months in business; or if the dealer has not been in business for twenty-four months, the cumulative equivalent of one sale every two months for the months the dealer has been in business before August 28, 2007. Any licensed motor vehicle dealer failing to meet the minimum vehicle sales requirements as referenced in this subsection shall not be qualified to renew his or her license for one year. Applicants who reapply after the one-year period shall meet the requirement of six sales per year**;

[(8)**]** **(9)** "New motor vehicle", any motor vehicle being transferred for the first time from a manufacturer, distributor or new vehicle dealer which has not been registered or titled in this state or any other state and which is offered for sale, barter or exchange by a dealer who is franchised to sell, barter or exchange that particular make of motor vehicle. The term "new motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(9)**]** **(10)** "New motor vehicle franchise dealer", any motor vehicle dealer who has been franchised to deal in a certain make of motor vehicle by the manufacturer or distributor of that

make and motor vehicle and who may, in line with conducting his business as a franchise dealer, sell, barter or exchange used motor vehicles;

[(10)**]** **(11)** "Person" includes an individual, a partnership, corporation, an unincorporated society or association, joint venture or any other entity;

[(11)**]** **(12)** "Powersport dealer", any motor vehicle dealer who sells, either pursuant to a franchise agreement or otherwise, primarily motor vehicles including but not limited to motorcycles, all-terrain vehicles, and personal watercraft, as those terms are defined in this chapter and chapter 306, RSMo;

[(12)**]** **(13)** "Public motor vehicle auction", any person, firm or corporation who takes possession of a motor vehicle whether by consignment, bailment or any other arrangement, except by title, for the purpose of selling motor vehicles at a public auction by a licensed auctioneer;

[(13)**]** **(14) "Recreational motor vehicle dealer", a dealer of new or used motor vehicles designed, constructed or substantially modified for use as temporary housing quarters, including sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle;**

(15) "Storage lot", an area, within the same city or county where a dealer may store excess vehicle inventory;

(16) "Trailer dealer", any person selling, either exclusively or otherwise, trailers as defined in subdivision (59) of section 301.010. A trailer dealer may acquire a motor vehicle for resale only as a trade-in for a trailer. Notwithstanding the provisions of subdivision (11) of section 301.010 and section 301.069, trailer dealers may purchase one driveaway license plate to display such motor vehicle for demonstration purposes. The sale of six or more trailers in any calendar year shall be required as evidence that such person is engaged in the trailer business and is eligible for licensure as a trailer dealer under sections 301.550 to 301.573. Any trailer dealer licensed before August 28, 2007, shall be required to meet the minimum calendar year sales of six or more trailers provided the dealer can prove the business achieved, cumulatively, six or more sales per year for the preceding twenty-four months in business; or if the dealer has not been in business for twenty-four months, the cumulative equivalent of one sale every two months for the months the dealer has been in business before August 28, 2007. Any licensed trailer dealer failing to meet the minimum trailer and vehicle sales requirements as referenced in this subsection shall not be qualified to renew his or her license for one year. Applicants who reapply after the one-year period shall meet the requirement of six sales per year;

[(14)**]** **(17)** "Used motor vehicle", any motor vehicle which is not a new motor vehicle, as defined in sections 301.550 to 301.573, and which has been sold, bartered, exchanged or given away or which may have had a title issued in this state or any other state, or a motor vehicle so used as to be what is commonly known as a secondhand motor vehicle. In the event of an assignment of the statement of origin from an original franchise dealer to any individual or other motor vehicle dealer other than a new motor vehicle franchise dealer of the same make, the vehicle so assigned shall be deemed to be a used motor vehicle and a certificate of ownership shall be obtained in the assignee's name. The term "used motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(15)**]** **(18)** "Used motor vehicle dealer", any motor vehicle dealer who is not a new motor vehicle franchise dealer;

[(16)**]** **(19)** "Vessel", every boat and watercraft defined as a vessel in section 306.010, RSMo;

[(17)**]** **(20)** "Vessel trailer", any trailer, as defined by section 301.010 which is designed and manufactured for the purposes of transporting vessels;

[(18)**]** **(21)** "Wholesale motor vehicle auction", any person, firm or corporation in the business of providing auction services solely in wholesale transactions at its established place of business in which the purchasers are motor vehicle dealers licensed by this or any other

jurisdiction, and which neither buys, sells nor owns the motor vehicles it auctions in the ordinary course of its business. Except as required by law with regard to the auction sale of a government owned motor vehicle, a wholesale motor vehicle auction shall not provide auction services in connection with the retail sale of a motor vehicle;

[(19)**]** **(22)** "Wholesale motor vehicle dealer", a motor vehicle dealer who sells motor vehicles only to other new motor vehicle franchise dealers or used motor vehicle dealers or via auctions limited to other dealers of any class.

2. For purposes of sections 301.550 to 301.573, neither the term "motor vehicle" nor the term "trailer" shall include manufactured homes, as defined in section 700.010, RSMo.

3. Dealers shall be divided into classes as follows:

(1) Boat dealers;

(2) Franchised new motor vehicle dealers;

(3) Used motor vehicle dealers;

(4) Wholesale motor vehicle dealers;

(5) Recreational motor vehicle dealers;

(6) Historic motor vehicle dealers;

(7) Classic motor vehicle dealers; **[**and**]**

(8) Powersport dealers**; and**

(9) Trailer dealers.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES — PROOF OF EDUCATIONAL SEMINAR REQUIRED, EXCEPTIONS, CONTENTS OF SEMINAR. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. **[**When the application is being made for licensure as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction,**]** **Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The** certification shall be performed by a uniformed member of the Missouri state highway patrol **or authorized or designated employee** stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department. A bona fide established place of business for any new motor vehicle franchise dealer **[**or**],** used motor vehicle dealer**, boat dealer, powersport dealer, wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction** shall **[**include**] be** a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading**, servicing,** or exchanging of motor vehicles**, boats, personal watercraft,** or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of

business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name of the business set forth in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which **[**one or more**]** **multiple** vehicles**, boats, personal watercraft, or trailers** may be displayed**[**, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required**]**. The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department. **[**When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty**]** **Dealers who sell only emergency vehicles as defined in section 301.550 are exempt from maintaining a bona fide place of business, including the related law enforcement certification requirements, and from meeting the minimum yearly sales**;

(2) **[**If**]** The **initial** application **[**is**]** for licensure **[**as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction,**]** **shall include** a photograph, not to exceed eight inches by ten inches **but no less than five inches by seven inches**, showing the business building**, lot,** and sign **[**shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business**]**. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) **[**If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4)**]** Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, **a powersport dealer,** a wholesale motor vehicle dealer, **trailer dealer,** or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, **powersport dealers,** wholesale motor vehicle dealers**, trailer dealers,** and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from

a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party**. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish with the application a copy of a current dealer garage policy bearing the policy number and name of the insurer and the insured**;

[(5)**]** **(4)** Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new **vehicle** manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, **powersport dealer,** wholesale motor vehicle auction**, trailer dealer,** or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number **and two additional number plates or certificates of number** within eight working hours after presentment of the application. Upon **[**the**]** renewal **[**of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction**]**, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or **new or used** motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers. . . . . .D-0 through D-999
New **[**motor vehicle franchise and commercial motor vehicle**]** **powersport dealers and motorcycle franchise dealers**. . . . . D-1000 through D-1999
Used motor vehicle**, used powersport, and used motorcycle** dealers. . . . . D-2000 through **[**D-5399and D-6000 through**]** D-9999
Wholesale motor vehicle dealers. . . . . **[**W-1000**]** **W-0** through W-1999
Wholesale motor vehicle auctions. . . . . [W-2000**]** **WA-0** through . . . . . **[**W-2999**]** **WA-999**
New and used trailer dealers. . . . . T-0 through T-9999

Motor vehicle [and], trailer**, and boat**
manufacturers. . . . . [M-0] **DM-0** through [M-9999] **DM-999**
[Motorcycle dealers. . . . . D-5400 through D-5999]
Public motor vehicle auctions. . . . . [A-1000] **A-0** through A-1999
Boat dealers [and boat manufacturers]. . . . . [B-0] **M-0**
. . . . . through [B-9999] **M-9999**
New and used recreational motor vehicle
dealers . . . . . **RV-0 through RV-999**

For purposes of this subsection, qualified transactions shall include the purchase of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a salvage dealers license shall be allowed one additional plate or certificate number per fifty-unit qualified transactions annually. In order for salvage dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of purchases during the reporting period of July first of the immediately preceding year to June thirtieth of the present year.

The provisions of this subsection shall become effective on the date the director of the department of revenue begins to reissue new license plates under section 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue begins reissuing new license plates under the authority granted under section 301.130 prior to December 1, 2008, the director of the department of revenue shall notify the revisor of statutes of such fact.

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of **new motor vehicle** manufacturers [and], motor vehicle dealers, **powersport dealers, recreational motor vehicle dealers, and trailer dealers,** the department shall [also] issue one number plate bearing the distinctive dealer license number **and may issue two additional number plates** to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee **for the number plate bearing the distinctive dealer license number and ten dollars and fifty cents for each additional number plate**. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. [As many] Additional number plates [as may be desired by manufacturers and motor vehicle dealers] and as many additional certificates of number [as may be desired by boat dealers and boat manufacturers] may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. **New motor vehicle manufacturers shall not be issued or possess more than three hundred forty-seven additional number plates or certificates of number annually. New and used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are limited to one additional plate or certificate of number per ten-unit qualified transactions annually. New and used recreational motor vehicle dealers are limited to two additional plates or certificate of number per ten-unit qualified transactions annually for their first fifty transactions and one additional plate or certificate of number per ten-unit qualified transactions thereafter. An applicant seeking the issuance of an initial license shall indicate on his or her initial application the applicant's proposed annual number of sales in order for the director to issue the appropriate number of additional plates or certificates of number.** A motor vehicle dealer, **trailer dealer,** boat dealer, **powersport dealer, recreational motor vehicle dealer, motor vehicle** manufacturer, boat manufacturer, [public motor vehicle auction,] **or** wholesale motor vehicle dealer [or wholesale motor vehicle auction] obtaining a **distinctive** dealer license plate or certificate of number or additional license plate or

additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated. **Wholesale and public auctions shall be issued a certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain number plates or certificates under this section, dealers shall submit to the department of revenue on August first of each year a statement certifying, under penalty of perjury, the dealer's number of sales during the reporting period of July first of the immediately preceding year to June thirtieth of the present year.**

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned **by a new motor vehicle manufacturer. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned** and held for resale by **[**the**] a** motor vehicle dealer **[**or manufacturer, and used**] for use** by a customer who is test driving the motor vehicle, **[**or is used**] for use and display purposes during, but not limited to, parades, private events, charitable events, or for use** by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition. **Trailer dealers may display their dealer license plates in like manner, except such plates may only be displayed on trailers owned and held for resale by the trailer dealer.**

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer **on a vessel or vessel trailer only**, but shall not be displayed on any **motor vehicle owned by a boat manufacturer, boat dealer, or trailer dealer, or** vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and **boat** manufacturers may display their certificate of number on a vessel or vessel trailer **[**which is being transported**] when transporting a vessel or vessels** to an exhibit or show.

9. (1) **[**Beginning August 28, 2006,**]** Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and **[**retail**] public** auto auctions **and applicants currently holding a new or used license for a separate dealership** shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to **current new motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for a** new motor vehicle franchise **[**dealers**]** or a motor vehicle leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce, and administer sections 301.550 to 301.570, and any other rules and regulations promulgated by the department.

[301.566. MOTOR VEHICLE SALES OR SHOWS HELD AWAY FROM LICENSED PLACE OF BUSINESS, ALLOWED, WHEN — OFF-SITE RETAIL SALE OF VEHICLES, WHEN — RECREATIONAL VEHICLE DEALER PARTICIPATION IN RECREATIONAL VEHICLE SHOWS AND VEHICLE EXHIBITIONS — OUT-OF-STATE DEALERS, REQUIREMENTS. — 1. A motor vehicle dealer may participate in any motor vehicle show or sale and conduct sales of motor vehicles away from the dealer's usual, licensed place of business if either the requirements of subsection 2 or 3 of this section are met or the event is conducted for not more than ten days, and if a majority of the motor vehicle dealers within a class of dealers described pursuant to subsection

3 of section 301.550 in a city or town participate or are invited and have the opportunity to participate in the event, except that a recreational motor vehicle dealer classified in subdivision (5) of subsection 3 of section 301.550 may participate in such a show or sale even if a majority of recreational motor vehicle dealers in a city or town do not participate in the event. The department shall consider such events to be proper in all respects and as if each dealer participant was conducting business at the dealer's usual business location. Nothing contained in this section shall be construed as applying to the sale of motor vehicles or trailers through either a wholesale motor vehicle auction or public motor vehicle auction.

2. Any person, partnership, corporation or association disposing of vehicles used and titled solely in its ordinary course of business as provided in section 301.570 may sell at retail such vehicles away from that person's bona fide established place of business, thus constituting an off-site sale, by adhering to each of the following conditions with regard to each and every off-site sale conducted:

(1) Have in effect a valid license, pursuant to sections 301.550 to 301.575, from the department for the sale of used motor vehicles;

(2) No off-site sale may exceed ten days in duration, and only one sale may be held per year, per county, in counties of the third and fourth classification;

(3) Pay to the motor vehicle commission fund, pursuant to section 301.560, a permit fee of two hundred fifty dollars for each off-site sale event;

(4) Advise the department, at least ten days prior to the sale, of the date, location and duration of each off-site sale;

(5) The sale of vehicles at off-site sales shall be limited to sales by a seller of vehicles used and titled solely in its ordinary course of business, and such sales shall be held in conjunction with a credit union and limited to members of the credit union, thus constituting a private sale to be advertised to members only;

(6) Off-site sales by a seller of vehicles used and titled solely in its ordinary course of business may also be held in conjunction with other financial institutions provided that any such sale event shall be held on the premises of the financial institution, and sales shall be limited to persons who were customers of the financial institution prior to the date of the sale event. Off-site sales held with such other financial institutions shall be limited to one sale per year per institution;

(7) The sale of motor vehicles which have the designation of the current model year, except discontinued models, is prohibited at off-site sales until subsequent model year designated vehicles of the same manufacture and model are offered for sale to the public.

3. A recreational vehicle dealer, as that term is defined in section 700.010, RSMo, who is licensed in another state may participate in recreational vehicle shows or exhibits with recreational vehicles within this state, in which less than fifty dealers participate as exhibitors with permission of the dealer's licensed manufacturer if all of the following conditions exist:

(1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed as motor vehicle dealers in this state;

(2) More than fifty percent of the participating recreational vehicle dealers are licensed motor vehicle dealers in this state; and

(3) The state in which the recreational vehicle is licensed is a state contiguous to Missouri and the state permits recreational vehicle dealers licensed in Missouri to participate in recreational vehicle shows in such state pursuant to conditions substantially equivalent to the conditions which are imposed on dealers from such state who participate in recreational vehicle shows in Missouri.

4. A recreational vehicle dealer licensed in another state may participate in a vehicle show or exhibition in Missouri which has, when it opens to the public, at least fifty dealers displaying recreational vehicles if the show or exhibition is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed in Missouri shall be licensed as recreational vehicle dealers by the state of their residence.

5. A recreational vehicle dealer licensed in another state who intends to participate in a vehicle show or exhibition in this state shall send written notification of such intended participation to the department of revenue at least thirty days prior to the vehicle show or exhibition. Upon receipt of such written notification, the department of revenue shall make a determination regarding compliance with the provisions of this section. If such recreational vehicle dealer would be unable to participate in the vehicle show or exhibition in this state pursuant to this section, the department of revenue shall notify the recreational vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the inability to participate in the vehicle show or exhibition in this state, a violation of this section shall result in a fine of one thousand dollars to be assessed by the department of revenue.**]**

301.566. MOTOR VEHICLE SALES OR SHOWS HELD AWAY FROM LICENSED PLACE OF BUSINESS, ALLOWED, WHEN — OFF-SITE RETAIL SALE OF VEHICLES, WHEN — RECREATIONAL VEHICLE DEALER PARTICIPATION IN RECREATIONAL VEHICLE SHOWS AND VEHICLE EXHIBITIONS — OUT-OF-STATE PARTICIPANTS — VIOLATION, PENALTY. — 1. A motor vehicle dealer may participate in **[**any**]** **no more than two** motor vehicle **[**show or sale**]** **shows or sales annually** and conduct sales of motor vehicles away from the dealer's usual, licensed place of business if either the requirements of subsection 2 or 3 of this section are met or the event is conducted for not more than **[**ten**]** **five consecutive** days, **the event does not require any motor vehicle dealer participant to pay an unreasonably prohibitive participation fee,** and if a majority of the motor vehicle dealers within a class of dealers described pursuant to subsection 3 of section 301.550 in a city or town participate or are invited and have the opportunity to participate in the event, except that a recreational motor vehicle dealer classified in subdivision (5) of subsection 3 of section 301.550 may participate in such a show or sale even if a majority of recreational motor vehicle dealers in a city or town do not participate in the event. **If any show or sale includes a class of dealer or franchised new vehicle line-make, that is also represented by a same class dealer or dealer representing the same line-make outside of the boundary lines of the city or town and is within ten miles of where the show or sale is to take place, the dealer outside of the boundary lines of the city or town shall be invited to participate in the show or sale.** The department shall consider such events to be proper in all respects and as if each dealer participant was conducting business at the dealer's usual business location. Nothing contained in this section shall be construed as applying to the sale of motor vehicles or trailers through either a wholesale motor vehicle auction or public motor vehicle auction.

2. Any person, partnership, corporation or association disposing of vehicles used and titled solely in its ordinary course of business as provided in section 301.570 may sell at retail such vehicles away from that person's bona fide established place of business, thus constituting an off-site sale, by adhering to each of the following conditions with regard to each and every off-site sale conducted:

(1) Have in effect a valid license, pursuant to sections 301.550 to 301.575, from the department for the sale of used motor vehicles;

(2) No off-site sale may exceed **[**ten**]** **five** days in duration, and only one sale may be held per year, per county**[**, in counties of the third and fourth classification**]**;

(3) Pay to the motor vehicle commission fund, pursuant to section 301.560, a permit fee of **[**two**]** **five** hundred fifty dollars for each off-site sale event;

(4) Advise the department, at least ten days prior to the sale, of the date, location and duration of each off-site sale;

(5) The sale of vehicles at off-site sales shall be limited to sales by a seller of vehicles used and titled solely in its ordinary course of business, and such sales shall be held in conjunction with a credit union and limited to members of the credit union, thus constituting a private sale to be advertised to members only;

(6) Off-site sales by a seller of vehicles used and titled solely in its ordinary course of business may also be held in conjunction with other financial institutions provided that any such sale event shall be held on the premises of the financial institution, and sales shall be limited to persons who were customers of the financial institution prior to the date of the sale event. Off-site sales held with such other financial institutions shall be limited to one sale per year per institution;

(7) The sale of motor vehicles which have the designation of the current model year, except discontinued models, is prohibited at off-site sales until subsequent model year designated vehicles of the same manufacture and model are offered for sale to the public.

3. A recreational vehicle dealer, as that term is defined in section 700.010, RSMo, who is licensed in another state may participate in recreational vehicle shows or exhibits with recreational vehicles within this state, in which less than fifty dealers participate as exhibitors with permission of the dealer's licensed manufacturer if all of the following conditions exist:

(1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed as motor vehicle dealers in this state;

(2) More than fifty percent of the participating recreational vehicle dealers are licensed motor vehicle dealers in this state; and

(3) The state in which the recreational vehicle is licensed is a state contiguous to Missouri and the state permits recreational vehicle dealers licensed in Missouri to participate in recreational vehicle shows in such state pursuant to conditions substantially equivalent to the conditions which are imposed on dealers from such state who participate in recreational vehicle shows in Missouri.

4. A recreational vehicle dealer licensed in another state may participate in a vehicle show or exhibition in Missouri which has, when it opens to the public, at least fifty dealers displaying recreational vehicles if the show or exhibition is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed in Missouri shall be licensed as recreational vehicle dealers by the state of their residence.

5. A recreational vehicle dealer licensed in another state who intends to participate in a vehicle show or exhibition in this state shall send written notification of such intended participation to the department of revenue at least thirty days prior to the vehicle show or exhibition. Upon receipt of such written notification, the department of revenue shall make a determination regarding compliance with the provisions of this section. If such recreational vehicle dealer would be unable to participate in the vehicle show or exhibition in this state pursuant to this section, the department of revenue shall notify the recreational vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the inability to participate in the vehicle show or exhibition in this state.

6. The department of revenue may assess a fine of up to one thousand dollars for any violation of this section.

301.567. ADVERTISING STANDARDS, VIOLATION OF, WHEN. — 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference

symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's inventory;

(5) The terms "list price", "sticker price", or "suggested retail price" shall be used only in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used, shall be accompanied by a clear and conspicuous disclosure that such terms represent the "manufacturer's suggested retail price" of the advertised vehicle;

(6) Terms such as "at cost", "$..... above cost"**, "invoice price", and "$..... below/over invoice"** shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of the sale**[**. Terms such as "invoice price", "$..... over invoice" may be used, provided that the invoice referred to is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for customer inspection. For purposes of this section, "manufacturer's factory invoice" means that document supplied by the manufacturer to the dealer listing the manufacturer's charge to the dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any governmental charges**]**;

(7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall be fully identified as to year, make, and model. In addition, in advertisements placed by individual dealers and not line-make marketing groups, the advertised price or credit terms shall include all charges which the buyer must pay to the dealer, except buyer-selected options and state and local taxes. If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be clearly and conspicuously disclosed within the advertisement;

(8) **[**Advertisements which offer to match or better any competitors' prices shall not be used;

(9)**]** Advertisements of "dealer rebates" shall not be used, however, this shall not be deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such rebates are clearly and conspicuously disclosed;

[(10)**]** **(9)** "Free", "at no cost" shall not be used if any purchase is required to qualify for the "free" item, merchandise, or service;

[(11)**]** **(10)** "Bait advertising", in which an advertiser may have no intention to sell at the prices or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the following examples:

(a) Not having available for sale the advertised motor vehicles at the advertised prices. If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, such limitations shall be stated in the advertisement;

(b) Advertising a motor vehicle at a specified price, including such terms as "as low as $.....", but having available for sale only vehicles equipped with dealer-added cost options which increase the selling price above the advertised price;

[(12)**]** **(11)** Any reference to monthly payments, down payments, or other reference to financing or leasing information shall be accompanied by a clear and conspicuous disclosure of the following:

(a) Whether the payment or other information relates to a financing or a lease transaction;

(b) If the payment or other information relates to a financing transaction, the minimum down payment, annual percentage interest rate, and number of payments necessary to obtain the advertised payment amount must be disclosed, in addition to any special qualifications required for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts, "college graduate" discounts, and a statement concerning whether the advertised terms are subject to credit approval;

(c) If the payment or other information relates to a lease transaction, the total amount due from the purchaser at signing with such costs broken down and identified by category, lease term expressed in number of months, whether the lease is closed-end or open-end, and total cost to the lessee over the lease term in dollars;

[(13)**]** **(12)** Any advertisement which states or implies that the advertising dealer has a special arrangement or relationship with the distributor or manufacturer, as compared to similarly situated dealers, shall not be used;

[(14)**]** **(13)** Any advertisement which, in the circumstances under which it is made or applied, is false, deceptive, or misleading shall not be used;

[(15)**]** **(14)** No abbreviations for industry words or phrases shall be used in any advertisement unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

2. The requirements of this section shall apply regardless of whether a dealer advertises by means of print, broadcast, or electronic media, or direct mail. If the advertisement is by means of a broadcast or print media, a dealer may provide the disclaimers and disclosures required under subdivision (3) of subsection 1 of this section by reference to an Internet web page or toll-free telephone number containing the information required to be disclosed.

3. Dealers shall clearly and conspicuously identify themselves in each advertisement by use of a dealership name which complies with subsection 6 of section 301.560.

301.569. RECREATIONAL VEHICLE SHOWS AND EXHIBITS BY OUT-OF-STATE PROMOTERS PERMITTED, WHEN. — 1. An out-of-state show promoter of recreational vehicles, as that term is defined in section 700.010, RSMo, may hold recreational vehicle shows or exhibits with recreational vehicles within this state if the following conditions exist:

(1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed as motor vehicle dealers in this state; and

(2) More than fifty percent of the participating recreational vehicle dealers are licensed motor vehicle dealers in this state.

2. A violation of subsection 1 of this section shall result in a five thousand dollar fine.

301.570. SALE OF SEVEN OR MORE MOTOR VEHICLES IN A YEAR WITHOUT LICENSE, PROHIBITED — PROSECUTING ATTORNEY, DUTIES — PENALTY, EXCEPTIONS. — 1. It shall be unlawful for any person, partnership, corporation, company or association, unless the seller is a financial institution, or is selling repossessed motor vehicles or is disposing of vehicles used and titled solely in its ordinary course of business or is a collector of antique motor vehicles, to sell or display with an intent to sell **[**seven**]** **six** or more motor vehicles in a calendar year, except when such motor vehicles are registered in the name of the seller, unless such person, partnership, corporation, company or association is:

(1) Licensed as a motor vehicle dealer by the department under the provisions of sections 301.550 to 301.573;

(2) Exempt from licensure as a motor vehicle dealer pursuant to subsection 4 of section 301.559;

(3) Selling commercial motor vehicles with a gross weight of at least nineteen thousand five hundred pounds, but only with respect to such commercial motor vehicles;

(4) An auctioneer, acting at the request of the owner at an auction, when such auction is not a public motor vehicle auction.

2. Any person, partnership, corporation, company or association that has reason to believe that the provisions of this section are being violated shall file a complaint with the prosecuting attorney in the county in which the violation occurred. The prosecuting attorney shall investigate the complaint and take appropriate action.

3. For the purposes of sections 301.550 to 301.573, the sale, barter, exchange, lease or rental with option to purchase of **[**seven**]** **six** or more motor vehicles in a calendar year by any person, partnership, corporation, company or association, whether or not the motor vehicles are owned by them, shall be prima facie evidence of intent to make a profit or gain of money and such person, partnership, corporation, company or association shall be deemed to be acting as a motor vehicle dealer **without a license**.

4. Any person, partnership, corporation, company or association who violates subsection 1 of this section is guilty of a class A misdemeanor.

5. The provisions of this section shall not apply to liquidation of an estate.

301.640. RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY. — 1. **[**Upon**]** **Within five business days after** the satisfaction of any lien or encumbrance of a motor vehicle or trailer, the lienholder shall**[**, within ten business days**]** release the lien or encumbrance on the certificate or a separate document, and mail or deliver the certificate or a separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo**, or when the lienholder receives payment in full electronically or by way of electronic funds transfer, whichever first occurs**.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within **[**ten**]** **five** business days **[**of**]** **after** any release of a lien and provide the director with the most current address of the owner **or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation**. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner **or any person who has delivered to the lienholder an authorization from the owner to receive the certificate or such documentation from the director**.

3. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

4. Any lienholder who fails to **timely** comply with subsection 1 or 2 of this section shall pay to the person or persons satisfying the lien or encumbrance **[**twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1 or 2 of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien**]** **liquidated damages up to a maximum of two thousand five hundred dollars for each lien. Liquidated damages shall be five hundred dollars if the lienholder does not comply within five business days after satisfaction of the lien or encumbrance. Liquidated damages shall be one thousand dollars if the lienholder does not comply within ten business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand dollars if the lienholder does not comply within fifteen business days after satisfaction of the lien or encumbrance.**

Liquidated damages shall be two thousand five hundred dollars if the lienholder does not comply within twenty business days after satisfaction of the lien or encumbrance. If delivery of the certificate or other lien release is made by mail, the delivery date is the date of the postmark for purposes of this subsection. **In computing any period of time prescribed or allowed by this section, the day of the act or event after which the designated period of time begins to run is not to be counted. However, the last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.**

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

301.2998. SPECIAL LICENSE PLATES, ISSUANCE OF NOT REQUIRED, WHEN. — Notwithstanding any other provisions of this chapter, which establishes the issuance of a specialty plate, if no applications for such plate have been received within five years from the effective date of the section authorizing the plate, then the department of revenue no longer will be required to accept applications and issue such plate.

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE — EXEMPTION FROM REQUIREMENT TO PROVIDE PROOF OF LAWFUL PRESENCE — ONE-YEAR RENEWAL, REQUIREMENTS. — 1. Beginning July 1, 2005, the director shall verify that an applicant for a driver's license is lawfully present in the United States before accepting the application. The director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178. **For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds**

general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. Notwithstanding any provisions of this chapter that requires an applicant to provide proof of lawful presence for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.

9. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove lawful presence, the department may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove lawful presence. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of lawful presence.

302.302. POINT SYSTEM — ASSESSMENT FOR VIOLATION — ASSESSMENT OF POINTS STAYED, WHEN, PROCEDURE. — 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303. . . . . 2 points

(except any violation of municipal stop sign ordinance where no accident is involved. . . . . 1 point)

(2) Speeding

In violation of a state law. . . . . 3 points

In violation of a county or municipal ordinance . . . . . 2 points

(3) Leaving the scene of an accident in violation of section 577.060, RSMo. . . . . 12 points

In violation of any county or municipal ordinance. . . . . 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo.. . . . . 4 points

In violation of a county or municipal ordinance. . . . . 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction. . . . . 2 points

(b) For the second conviction . . . . . 4 points

(c) For the third conviction. . . . . 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges. . . . . 12 points

(7) Obtaining a license by misrepresentation. . . . . 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs. . . . . 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight. . . . . 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight

In violation of state law . . . . . 8 points

In violation of a county or municipal ordinance or federal law or regulation. . . . . 8 points

(11) Any felony involving the use of a motor vehicle. . . . . 12 points

(12) Knowingly permitting unlicensed operator to operate a motor vehicle. . . . . 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo. . . . . 4 points

(14) Endangerment of a highway worker in violation of section 304.585, RSMo. . . . . 4 points

(15) Aggravated endangerment of a highway worker in violation of section 304.585, RSMo. . . . . 12 points

(16) For a conviction of violating a municipal ordinance that prohibits tow truck operators from stopping at or proceeding to the scene of an accident unless they have been requested to stop or proceed to such scene by a party involved in such accident or by an officer of a public safety agency . . . . . 4 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the state highways and transportation commission, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation

committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the state highways and transportation commission pursuant to sections 302.133 to 302.137. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct

the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.

(3) Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to junior colleges or community colleges established under chapter 178, RSMo, or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.

(5) The director shall have the authority to waive the driving skills test for any qualified military applicant for a commercial driver license who is currently licensed at the time of application for a commercial driver license. The director shall impose conditions and limitations to restrict the applicants from whom the department may accept alternative requirements for the skills test described in federal regulation 49 C.F.R. 383.77. An applicant must certify that, during the two-year period immediately preceding application for a commercial driver license, all of the following apply:

(a) The applicant has not had more than one license;

(b) The applicant has not had any license suspended, revoked, or cancelled;

(c) The applicant has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R. 383.51(b);

(d) The applicant has not had more than one conviction for any type of motor vehicle for serious traffic violations;

(e) The applicant has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, but not including any parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault;

(f) The applicant is regularly employed in a job requiring operation of a commercial motor vehicle and has operated the vehicle for at least sixty days during the two years immediately preceding application for a commercial driver license. The vehicle must be representative of the commercial motor vehicle the driver applicant operates or expects to operate;

(g) The applicant, if on active duty, must provide a notarized affidavit signed by a commanding officer as proof of driving experience as indicated in paragraph (f) of this subdivision;

(h) The applicant, if honorably discharged from military service, must provide a form-DD214 or other proof of military occupational specialty;

(i) The applicant must meet all federal and state qualifications to operate a commercial vehicle; and

(j) The applicant will be required to complete all applicable knowledge tests.

3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol, the Missouri capitol police, **a conservation agent,** or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections who, as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.025;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class A misdemeanor.

304.170. REGULATIONS AS TO WIDTH, HEIGHT AND LENGTH OF VEHICLES. — 1. No vehicle operated upon the highways of this state shall have a width, including load, in excess of **[**ninety-six**] one hundred two** inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation**[**; except that, vehicles having a width, including load, not in excess of one hundred two inches, exclusive of clearance lights, rearview mirrors or other accessories required by law or regulations, may be operated on the interstate highways and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway**]**. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load, in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed

the forty-five feet length when such excess length is caused by the projection of a front safety bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer. The length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of **[**seventy-five**]** **ninety-seven** feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances, or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section 400.9-109, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section 400.9.109, RSMo, may be operated occasionally for short distances on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term "implements of husbandry" means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials.

14. **[**The purpose of this section is to permit a single trip per day by the implement of husbandry from the source of supply to a given farm.

15.**]** Sludge disposal units may be operated on all state highways other than the interstate system. Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.

407.730. DEFINITIONS. — As used in sections 407.730 to 407.748, the following terms mean:

(1) "Advertisement", oral, written, graphic or pictorial statements made in the course of solicitation of business including, without limitation, any statement or representation made in a newspaper, magazine, the car rental company's proprietary web site, or other publication, or contained in any notice, sign, poster, display, circular, pamphlet, or letter which may collectively be called "print advertisements", or on radio or television, which may be referred to as "broadcast commercials";

(2) "Authorized driver":

(a) The renter;

(b) The renter's spouse if the spouse is a licensed driver and satisfies the car rental company's minimum age requirement;

(c) The renter's employee or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirements;

(d) Any person who operates the vehicle during an emergency situation; and

(e) Any person expressly listed by the car rental company on the renter's contract as an authorized driver;

(3) "Blackout date", any date on which an advertised price is totally unavailable to the public;

(4) "Car rental company", any person or entity in the business of renting private passenger vehicles to the public;

(5) "Car rental insurance", products and services that are offered in connection with and incidental to the rental of a motor vehicle under subdivision (10) of subsection 1 of section 375.786, RSMo. This definition of optional car rental insurance or any other definition of insurance shall not include collision damage waiver;

(6) "Clear and conspicuous", that the statement, representation or term being disclosed is of such size, color contrast, and audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. All language and terms should be used in accordance with their common or ordinary usage and meaning;

(7) "Collision damage waiver", any product a consumer purchases from a car rental company in order to waive all or part of his responsibility for damages, or loss of, a rental vehicle;

(8) "Limited time availability", that the advertised rental price is only available for a specific period of time or that the price is not available during certain blackout periods;

(9) "Mandatory charge", any charge, fee, or surcharge consumers must generally pay in order to obtain or operate a rental vehicle;

(10) "Master rental agreement", those documents used by a car rental company for expedited service to members in a program sponsored by the car rental company in which renters establish a profile and select preferences for rental needs which establish the terms and conditions governing the use of a rental car rented by a car rental company by a participant in a master rental agreement;

(11) "Material restriction", a restriction, limitation or other requirement which significantly affects the price of, use of, or a consumer's financial responsibility for a rental car;

(12) "Rental agreement", any document or combination of documents, which, when read together and incorporated by reference to each other, relate to and establish the terms and conditions of the rental of a motor vehicle by an individual; or when such a combination of documents is entered into as part of any written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented by a car rental company**;**

(13) "Vehicle license fees", charges that may be imposed upon any transaction originating in the State of Missouri to recoup costs incurred by a car rental company to license, title, inspect, register, plate, and pay personal property taxes on rental vehicles.

407.732. ADVERTISING, RESTRICTIONS, REQUIREMENTS — PRICES ADVERTISED, QUANTITY TO BE SUFFICIENT — SURCHARGE FEES — OTHER TERMS, CLEARLY DISCLOSED. — 1. Any advertisement shall be nondeceptive and in plain language. Deception may result not only from a direct statement in the advertisement and from reasonable inferences therefrom, but also from omitting or obscuring a material restriction or fact.

2. Print advertisements that include prices for car rentals shall make clear and conspicuous disclosure of the following applicable restrictions:

(1) The expiration date of the price offered if it is available for less than thirty days after the last date of publication of the advertisement;

(2) The existence of any geographical limitations on use;

(3) The extent of any advance reservation or advance payment requirements;

(4) Airport access fee disclosure;

(5) The existence of any penalties or higher rates that may apply for early or late returns for weekly or weekend rentals;

(6) Existence of additional driver fee;

(7) The existence of blackout dates or specific blackout dates for location specific advertisements;

(8) Nonavailability of offer at all locations;

(9) Disclosure of mileage caps and charges;

(10) Disclosure of collision damage waiver costs.

Print advertisements that include prices for car rentals, where mileage fees apply to the advertised price, shall prominently disclose this extraordinary material restriction. Print advertisements that include prices for car rentals, where a company sells collision damage waiver to the public and does not include this cost in the advertised rate, shall prominently disclose the price for collision damage waiver.

3. Broadcast commercials that include prices shall indicate whether substantial restrictions apply and shall include:

(1) The expiration date of the price offered if the advertised price is available for less than thirty days;

(2) Nonavailability of the advertised price in certain locations if that is the case;

(3) Mileage limitations and charges, if any;

(4) Price or price range for collision damage waiver.

4. Any advertised price shall be available in sufficient quantity to meet reasonably expected public demand for the rental cars advertised for the entire advertised period, beginning on the day on which the advertisement appears and continuing at least thirty days thereafter, unless the advertisement clearly and conspicuously discloses a shorter or longer expiration date for the offer, and in that event, through the expiration date. Prices may be advertised although less cars are available than would be required to meet the expected demand, as long as this limitation is clearly and conspicuously set forth in the advertisement and a reasonable number of cars are made available at the advertised price.

5. **[**Any surcharge or fee, including, but not limited to, fuel surcharges, airport access fees, and surcharges in lieu of sales tax that consumers must generally pay at any location in order to obtain or operate a rental vehicle shall be clearly and conspicuously disclosed when a price is advertised**] The existence of each additional fee, charge, or surcharge that a consumer must pay and which may be imposed as a separately stated charge on a rental transaction including, but in no way to be construed as limited to, airport fees and vehicle license fees shall be disclosed any time a price is advertised and each fee, charge, or surcharge shall be clearly and conspicuously disclosed on the rental agreement**.

6. A photograph of a rental car shall not be used in a price advertisement unless the advertisement clearly and conspicuously discloses, in immediate proximity to the photograph, the cost to rent the car depicted. A photograph of a rental car shall not be used in an advertisement if the advertisement states directly or by implication that the automobile depicted may be rented under certain conditions and that is not the case.

7. Any price advertised as a "daily price" or "price per day" shall be available for rentals of a single day or more, and any price advertised as a "weekly" rate shall be available for the first week and for subsequent weeks of the same rental. A rental company shall not charge more than a weekly price which was advertised if a customer on a weekly rental returns the car earlier than seven days. A price advertised as a "weekend rate" shall be available on both Saturday and Sunday.

8. Any car rental advertising promotion which extends a free offer or promises a gift or other incentive shall clearly and conspicuously disclose all the terms and conditions for receiving the offer, gift or incentive. A gift, incentive, or other merchandise or service shall not be advertised as free, if the cost of the item, in whole or in part, is included in the advertised rental rate. If the gift or offer is provided by a third party, the car rental company shall be fully responsible for providing the gift or offer under the terms and conditions disclosed.

9. A rental car shall not be advertised using the words "unlimited mileage" or other terms that suggest there are absolutely no mileage restrictions on the use of the rental vehicle only unless there are no geographical restrictions on the use of the vehicle.

10. At the time of the car rental transaction, the car rental company shall disclose the following:

(1) The total cost, including any airport access fees;

(2) Geographical limitations;

(3) Advance reservation or payment requirements;

(4) Penalties or higher rates that may apply for early or late returns for weekly or weekend rentals;

(5) Cost of additional driver fee;

(6) Blackout dates.

407.815. DEFINITIONS. — As used in sections 407.810 to 407.835, unless the context otherwise requires, the following terms mean:

(1) "Administrative hearing commission", the body established in chapter 621, RSMo, to conduct administrative hearings;

(2) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;

(3) "Coerce", to force a person to act in a given manner or to compel by pressure or threat but shall not be construed to include the following:

(a) Good faith recommendations, exposition, argument, persuasion or attempts at persuasion;

(b) Notice given in good faith to any franchisee of such franchisee's violation of terms or provisions of such franchise or contractual agreement;

(c) Any other conduct set forth in section 407.830 as a defense to an action brought pursuant to sections 407.810 to 407.835; or

(d) Any other conduct set forth in sections 407.810 to 407.835 that is permitted of the franchisor or is expressly excluded from coercion or a violation of sections 407.810 to 407.835;

(4) "Franchise" or "franchise agreement", a written arrangement or contract for a definite or indefinite period, in which a person grants to another person a license to use, or the right to grant to others a license to use, a trade name, trademark, service mark, or related characteristics, in which there is a community of interest in the marketing of goods or services, or both, at wholesale or retail, by agreement, lease or otherwise, and in which the operation of the franchisee's business with respect to such franchise is substantially reliant on the franchisor for the continued supply of franchised new motor vehicles, parts and accessories for sale at wholesale or retail;

(5) "Franchisee", a person to whom a franchise is granted;

(6) "Franchisor", a person who grants a franchise to another person;

(7) "Motor vehicle", for the purposes of sections 407.810 to 407.835, any motor-driven vehicle required to be registered pursuant to the provisions of chapter 301, RSMo, except that, motorcycles and all-terrain vehicles as defined in section 301.010, RSMo, shall not be included**. The term "motor vehicle" shall also include any engine, transmission, or rear axle, regardless of whether attached to a vehicle chassis, that is manufactured for the**

installation in any motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds that is registered for the operations on the highways of this state under chapter 301, RSMo;

(8) "New", when referring to motor vehicles or parts, means those motor vehicles or parts which have not been held except as inventory, as that term is defined in subdivision (4) of section 400.9-109, RSMo;

(9) "Person", a natural person, sole proprietor, partnership, corporation, or any other form of business entity or organization.

[301.170. IN TRANSIT TAGS — DISPLAY — FEE. — 1. Motor vehicles and trailers in the course of delivery from a manufacturer to a dealer, or from one dealer to another, may be operated on the highways without number plates being attached thereto, provided they bear on the front and on the rear, substantially as provided for number plates, a placard displaying the words "In Transit" and the number of the certificate issued as herein provided in letters and figures not less than three inches high with a stroke not less than three-eighths of an inch wide; and provided further, that the operator of each motor vehicle shall carry, and exhibit on request, a certificate bearing the seal of the director of revenue and his facsimile signature, countersigned with the genuine signature of the manufacturer or dealer selling such motor vehicle, or his authorized agent. Such certificate shall bear a number and shall show the date and place of issue and the destination of the motor vehicle, and shall be of such form as the director of revenue shall determine.

2. The manufacturer, dealer or authorized agent shall insert the correct date, place of issue and destination, and mail a duplicate copy of such certificate to the director of revenue at the time the original is issued; original and duplicate forms of certificates shall be furnished to manufacturers and dealers, and to no others, in books of ten sets of certificates each for a fee of five dollars, and in books of fifty sets of certificates each for a fee of twenty-five dollars. It shall be unlawful for any person to display such placard or to use such certificate except as herein provided.**]**

[301.177. TEMPORARY PERMITS FOR NONRESIDENTS, PROCEDURE — FEES.. — 1. The director shall issue a temporary permit authorizing the operation of a motor vehicle or trailer by a nonresident buyer for not more than fifteen days from the date of purchase. Proof of ownership must be presented to the director and application for such permit shall be made upon a blank form furnished by the director of revenue and shall contain a full description of the motor vehicle, including manufacturer's or other identifying number.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and, if satisfied that the applicant is the lawful owner of such motor vehicle, issuance of such permit shall be granted and the director shall furnish an appropriate placard evidencing the issuance thereof to be displayed on the vehicle. A fee of ten dollars shall be collected upon the issuance of each such permit.**]**

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 301.142 and 301.560 of section A of this act shall become effective January 1, 2008.

Approved July 13, 2007

SB 84 [CCS HCS SB 84]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of criminal background checks for emergency child placements

AN ACT to repeal sections 43.530, 210.482, 210.487, 210.570, 210.580, 210.595, 210.600, 210.610, 210.620, 210.622, 210.625, 210.630, 210.635, 210.640, 210.700, 210.762, 210.1012, 211.319, 211.444, 211.447, 453.010, and 453.011, RSMo, and to enact in lieu thereof nineteen new sections relating to children and minors, with penalty provisions and a contingent effective date for certain sections.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.530, 210.482, 210.487, 210.570, 210.580, 210.595, 210.600, 210.610, 210.620, 210.622, 210.625, 210.630, 210.635, 210.640, 210.700, 210.762, 210.1012, 211.319, 211.444, 211.447, 453.010, and 453.011, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 43.530, 210.482, 210.487, 210.570, 210.580, 210.620, 210.622, 210.625, 210.635, 210.640, 210.762, 210.1012, 211.319, 211.444, 211.447, 453.010, 453.011, 650.025, and 1, to read as follows:

43.530. FEES, METHOD OF PAYMENT — CRIMINAL RECORD SYSTEM FUND, ESTABLISHED — FUND NOT TO LAPSE. — 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than **[**five**]** **nine** dollars per request for criminal history record information not based on a fingerprint search

[when the requesting entity is required to obtain such information by any provision of state or federal law and pay a fee of not more than fourteen dollars per request for criminal history record information based on a fingerprint search when the requesting entity is required to obtain such information by any provision of state or federal law; provided that, when the requesting entity is not required to obtain such information by law, the requesting entity shall pay a fee of not more than ten dollars per request for criminal history record information not based on a fingerprint search and]. **In each year beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.**

2. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search[. Each such]**, unless the request is required under the provisions of subdivision (6) of section 210.481, RSMo, section 210.487, RSMo, or section 571.101, RSMo, in which case, the fee shall be fourteen dollars.**

3. A request **made under subsections 1 and 2 of this section** shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

210.482. BACKGROUND CHECKS FOR EMERGENCY PLACEMENTS, REQUIREMENTS, EXCEPTIONS — COST, PAID BY WHOM. — 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry.

For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of or pled guilty or nolo contendere to any crime.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen [business] **calendar** days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home and all children less than seventeen residing in the home who the division has determined have been certified as an adult for the commission of a crime, [other than persons within the second degree of consanguinity and affinity to the child,] shall report to a local law enforcement agency for the purpose of providing

two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home and all children less than seventeen years of age residing in the home who the division has determined have been certified as an adult for the commission of a crime shall, within fifteen **[**business**]** **calendar** days, submit to the juvenile court or the children's division two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

4. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

5. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. BACKGROUND CHECKS FOR FOSTER FAMILIES, REQUIREMENTS — COSTS, PAID BY WHOM — RULEMAKING AUTHORITY. — 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home and any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime is listed on the child abuse and neglect registry. For any children less than seventeen years of age residing in the applicant's home, the children's division shall inquire of the applicant whether any children less than seventeen years of age residing in the home have ever been certified as an adult and been convicted of or pled guilty or nolo contendere to any crime.

2. **After the initial investigation is completed under subsection 1 of this section, the children's division and the department of health and senior services may waive the requirement for a fingerprint background check for any subsequent recertification.**

3. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

[3.**]** **4.** The division may make arrangements with other executive branch agencies to obtain any investigative background information.

[4.**]** **5.** The division may promulgate rules that are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.570. TEXT OF COMPACT. — This interstate compact for juveniles is entered with all jurisdictions legally joining the compact in the form substantially as follows:

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads

of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct non-compliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means: those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) Accused Delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) Adjudicated Delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) Accused Status Offender - a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) Non-Offender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Non-Compacting state" means: any state which has not enacted the enabling legislation for this compact.

J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its bylaws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing any person of a crime, or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes;

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.

2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the compacting states.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, hire or contract for services of personnel.

8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

14. To sue and be sued.

15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

19. To establish uniform standards of the reporting, collecting and exchanging of data.

20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. Establishing the fiscal year of the Interstate Commission;

b. Establishing an executive committee and such other committees as may be necessary;

c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

e. Establishing the titles and responsibilities of the officers of the Interstate Commission;

f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

g. Providing "start-up" rules for initial administration of the compact; and

h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within

the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;

2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII
OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII
FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX
THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X
COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI
WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the Interstate Commission;

b. Alternative Dispute Resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the Majority and Minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII
BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

210.580. COMPACT BINDING, WHEN. — The compact shall become binding upon the state of Missouri **[**when signed by the commissioners as herein provided and by the proper authorities of any other state entering into the compact**]** **upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of August 28, 2007, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state**.

210.620. COMPACT ENACTED, TEXT OF COMPACT. — The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in form substantially as follows:

[ARTICLE I

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

1. The name, date and place of birth of the child.
2. The identity and address or addresses of the parents or legal guardian.
3. The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect

or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have powers to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United

States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.**]**

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in compliance with the applicable laws of the receiving state governing the placement of children therein.

B. "Assessment" means an evaluation of a prospective placement to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional and physical development.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

E. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC §1602(c).

F. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

G. "Jurisdiction" means the power and authority of a court to hear and decide matters.

H. "Member state" means a state that has enacted this compact.

I. "Non-custodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has

joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

J. "Non-member state" means a state which has not enacted this compact.

K. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

L. "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

M. "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

N. "Provisional placement" means that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

O. "Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

P. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

Q. "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

R. "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities.

S. "Rule" means a written directive, mandate, standard or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

T. "Sending state" means the state from which the placement of a child is initiated.

U. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

V. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

W. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

X. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

Y. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

2. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

3. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

4. The placement of a child with a non-custodial parent provided that:

a. The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

5. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

6. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

7. The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact

commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. The sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state; or

2. The child is adopted; or

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

D. When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

F. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

ARTICLE V. ASSESSMENTS

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

B. Prior to the sending, bringing, or causing a child to be sent or brought into a receiving state, the private child placing agency shall:

1. Provide evidence that the applicable laws of the sending state have been complied with; and

2. Certification that the consent or relinquishment is in compliance with applicable law of the birth parent's state of residence or, where permitted, the laws of the state of where the finalization of the adoption will occur; and

3. Request through the public child placing agency in the sending state an assessment to be conducted in the receiving state; and

4. Upon completion of the assessment, obtain the approval of the public child placing agency in the receiving state.

C. The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

D. Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

E. The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

F. The public child placing agency in the receiving state shall complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

G. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as provided in Article VI, Section C, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. STATE RESPONSIBILITY

A. For the interstate placement of a child made by a public child placing agency or state court:

1. The public child placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. A private child placing agency shall be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the Interstate Commission.

D. The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

E. The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

F. Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

G. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

H. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

I. The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

J. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's

employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of statutory law and shall supersede any state law, rule or regulation to the extent of any conflict.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by

substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules

2. Forms and procedures

3. Time lines

4. Data collection and reporting

5. Rulemaking

6. Visitation

7. Progress reports/supervision

8. Sharing of information/confidentiality

9. Financing of the Interstate Commission

10. Mediation, arbitration and dispute resolution

11. Education, training and technical assistance

12. Enforcement

13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall supercede state law, rules or regulations to the extent of any conflict therewith.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial

determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the

compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

210.622. EMERGENCY PLACEMENT OF ABUSED OR NEGLECTED CHILDREN ACROSS STATE LINES, APPROVAL REQUIRED, WHEN. — Notwithstanding the provisions of section 210.620, the **children's** division **[**of family services**]** may enter into an agreement with a similar agency in any state adjoining Missouri that provides for the emergency placement of abused or neglected children across state lines, without the prior approval required by the interstate compact. A request for approval pursuant to section 210.620 shall be initiated if the placement extends beyond thirty days.

210.625. FINANCIAL RESPONSIBILITY FOR CHILD, HOW FIXED. — The financial responsibility for any child placed pursuant to the Provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article **[**V**]** **VII** thereof, in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of state laws fixing responsibility for the support of children also may be invoked.

210.635. PLACEMENT AUTHORITY OF COURTS, RETENTION OF JURISDICTION. — Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article **[**VI**]** **III** of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article **[**V**]** **IV** thereof.

210.640. PLACEMENTS FROM NONPARTY STATES, PROCEDURE FOR. — No placement made into this state from a jurisdiction not party to the Interstate Compact on the Placement of Children shall be lawful unless the person or agency making the placement complies with and follows the procedures and requirements of **[**Article III of**]** that compact as though the state or jurisdiction from which the child is sent or brought were party thereto. This section shall not apply to any placement which would not be subject to the terms of the Interstate Compact on the Placement of Children if both this state and the other state or jurisdiction from which the child is sent or brought were parties thereto.

210.762. FAMILY SUPPORT TEAM MEETINGS TO BE HELD, WHEN — WHO MAY ATTEND — FORM TO BE USED. — 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a family support team meeting prior to or within twenty-four hours following the protective custody hearing held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional family support team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a family support team meeting within seventy-two hours. **The requirement for a family support team meeting shall not apply when the parent has consented in writing to the termination of his or her parental rights in conjunction with a placement in a licensed child placing agency under subsection 6 of section 453.010, RSMo.**

2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any

designee of the parent that has written authorization shall be notified and invited to participate in all family support team meetings. The family support team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The case manager shall be responsible for including such form with the case records of the child.

210.1012. AMBER ALERT SYSTEM CREATED — DEPARTMENT TO DEVELOP SYSTEM REGIONS — FALSE REPORT, PENALTY. — 1. There is hereby created a statewide program called the "Amber Alert System" referred to in this section as the "system" to aid in the identification and location of **an** abducted **[**persons**] child**.

2. For the purposes of this section, "abducted **[**person**] child**" means a **[**person**] child** whose whereabouts are unknown and who is**:**

(1) Less than eighteen years of age and reasonably believed to be the victim of the crime of kidnaping as defined by section 565.110, RSMo, as determined by local law enforcement**;**

(2) Reasonably believed to be the victim of the crime of child kidnaping as defined by section 565.115, RSMo, as determined by local law enforcement; or

(3) Less than eighteen years of age and at least fourteen years of age and who, if under the age of fourteen, would otherwise be reasonably believed to be a victim of child kidnaping as defined by section 565.115, RSMo, as determined by local law enforcement.

3. The department of public safety shall develop regions to provide the system. The department of public safety shall coordinate local law enforcement agencies and public commercial television and radio broadcasters to provide an effective system. In the event that a local law enforcement agency opts not to set up a system and an abduction occurs within the jurisdiction, it shall notify the department of public safety who will notify local media in the region.

4. The Amber alert system shall include all state agencies capable of providing urgent and timely information to the public together with broadcasters and other private entities that volunteer to participate in the dissemination of urgent public information. At a minimum, the Amber alert system shall include the department of public safety, highway patrol, department of transportation, department of health and senior services, and Missouri lottery.

5. The department of public safety shall have the authority to notify other regions upon verification that the criteria established by the oversight committee has been met.

6. Participation in an Amber alert system is entirely at the option of local law enforcement agencies and federally licensed radio and television broadcasters.

7. Any person who knowingly makes a false report that triggers an alert pursuant to this section is guilty of a class A misdemeanor.

211.319. JUVENILE COURT RECORDS AND PROCEEDINGS, ABUSE AND NEGLECT CASES, PROCEDURE. — 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be open to the public**; except that, when the parent has consented in writing to the termination of his or her parental rights in conjunction with a placement with a licensed child placing agency under subsection 6 of section 453.010, RSMo, the hearing shall be closed**. The

court, on its own motion, may exclude for good cause shown any person or persons from the proceedings to protect the welfare and best interests of the child and for exceptional circumstances. Any party to a juvenile court proceeding referred to in this subsection, except the state, may file a motion requesting that the general public be excluded from the proceeding or any portion of the proceeding. Upon the filing of such motion, the court shall hear arguments by the parties, but no evidence, and shall make a determination whether closure is in the best interest of the parties or whether it is in the public interest to deny such motion. The court shall make a finding on the record when a motion to close a hearing pursuant to this section is made and heard by the court.

2. Notwithstanding the provisions of subsection 1 of this section, the general public shall be excluded from all juvenile court proceedings referred to in subsection 1 of this section during the testimony of any child or victim and only such persons who have a direct interest in the case or in the work of the court will be admitted to the proceedings.

3. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the children's division, social histories, home studies, and police reports and law enforcement records. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of any child involved.

4. For records made available to the public pursuant to this section:

(1) The identity of any child involved except the perpetrator shall not be disclosed and all references in such records to the identity of any child involved except the perpetrator shall be redacted prior to disclosure to the public; and

(2) All information that may identify or lead to the disclosure of the identity of a reporter of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not be disclosed to the public.

5. The provisions of this section shall apply to juvenile court proceedings and records specified in this section in which the initial pleadings are filed on or after July 1, 2005.

211.444. TERMINATION OF PARENTAL RIGHTS UPON CONSENT OF PARENT, WHEN — EXECUTION OF WRITTEN CONSENT — ACKNOWLEDGMENT. — 1. The juvenile court may, upon petition of the juvenile officer **or a child placing agency licensed under sections 210.481 to 210.536, RSMo, in conjunction with a placement with such agency under subsection 6 of section 453.010, RSMo**, or the court before which a petition for adoption has been filed pursuant to the provisions of chapter 453, RSMo, terminate the rights of a parent to a child if the court finds that such termination is in the best interests of the child and the parent has consented in writing to the termination of his or her parental rights.

2. The written consent required by subsection 1 of this section may be executed before or after the institution of the proceedings and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving the written consent shall be witnessed by at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective parents. The notary public or witnesses shall verify the identity of the party signing the consent.

3. The written consent required by subsection 1 of this section shall be valid and effective only after the child is at least forty-eight hours old and if it complies with the other requirements of section 453.030, RSMo.

211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION. — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection **[**3**] 4** of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. **A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.**

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

[4.**] 5.** The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development;

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566, RSMo, when the child or any child in the family was a victim, or a violation of section 568.020, RSMo, when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such

a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or **[**3**]** **4** of this section or subdivisions (1), (2), (3) or (4) of subsection **[**4**]** **5** of this section or similar laws of other states.

[5.**]** **6.** The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 3 or 4 of this section.

[6.**]** **7.** When considering whether to terminate the parent-child relationship pursuant to subsection 2 or **[**3**]** **4** of this section or subdivision (1), (2), (3) or (4) of subsection **[**4**]** **5** of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

[7.**]** **8.** The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

[8.**]** **9.** In actions for adoption pursuant to chapter 453, RSMo, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, **[**3 or**]** 4**, or 5** of this section.

453.010. PETITION FOR PERMISSION TO ADOPT, VENUE, JURISDICTION — NO DENIAL OR DELAY IN PLACEMENT OF CHILD BASED ON RESIDENCE OR DOMICILE — EXPEDITED PLACEMENT, WHEN. — 1. Any person desiring to adopt another person as his or her child shall petition the juvenile division of the circuit court of the county in which:

(1) The person seeking to adopt resides;

(2) The child sought to be adopted was born;

(3) The child is located at the time of the filing of the petition; or

(4) Either birth person resides.

2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of subsection 1 of this section.

3. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to adopt such person as his or her child shall petition the juvenile division of the circuit court which has jurisdiction over the child for permission to adopt such person as his or her child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.

4. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.

5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile. The court shall expedite the placement of a child for adoption pursuant to subsection 3 of this section.

6. A licensed child placing agency may file a petition for transfer of custody if a birth parent consents in writing by power of attorney for placement of a minor child, a consent to adoption, or any other document which evidences a desire to place the child with the licensed child placing agency for the purposes of transfer of custody of the child to the licensed child placing agency. The written consent obtained from the birth parent shall strictly comply with section 453.030.

453.011. EXPEDITING TERMINATION OF PARENTAL RIGHTS AND CONTESTED ADOPTION CASES. — 1. In all cases **[**in which**] involving** the termination of parental rights**, placement,** or adoption of a child **[**is**], whether voluntary or** contested by any person or agency, the **[**trial**]** court shall, consistent with due process, expedite the **[**contested**]** termination**, placement,** or adoption proceeding by entering such scheduling orders as are necessary to ensure that the case is not delayed, and such case shall be given priority in setting a final hearing of the proceeding and shall be heard at the earliest possible date over other civil litigation, other than **children's** division **[**of family services'**]** child protection cases.

2. In all cases as specified in subsection 1 of this section which are appealed from the decision of a trial court:

(1) The transcript from the prior court proceeding shall be provided to the appellate court no later than thirty days from the date the appeal is filed; and

(2) The appellate court shall, consistent with its rules, expedite the contested termination of parental rights or adoption case by entering such scheduling orders as are necessary to ensure that a ruling will be entered within thirty days of the close of oral arguments, and such case shall be given priority over all other civil litigation, other than **children's** division **[**of family services'**]** child protection cases, in reaching a determination on the status of the termination of parental rights or of the adoption; and

(3) In no event shall the court permit more than one request for an extension by either party.

3. It is the intent of the general assembly that the permanency of the placement of a child who is the subject of a termination of parental rights proceeding**, a placement proceeding,** or an adoption proceeding not be delayed any longer than is absolutely necessary consistent with the rights of all parties, but that the rights of the child to permanency at the earliest possible date be given priority over all other civil litigation other than **children's** division **[**of family services'**]** child protection cases.

650.025. MISSING AND ENDANGERED PERSONS ADVISORY SYSTEM CREATED — DEFINITIONS — RULEMAKING AUTHORITY. — 1. There is hereby created an advisory system, referred to in this section as the "system", to aid in the identification and location of missing endangered persons.

2. For the purposes of this section, "missing endangered person" means a person whose whereabouts are unknown and who is:

(1) Physically or mentally disabled to the degree that the person is dependent upon an agency or another individual;

(2) Missing under circumstances indicating that the missing person's safety may be in danger; or

(3) Missing under involuntary or unknown circumstances.

3. The department of public safety has the authority to promulgate rules establishing recommended procedures for issuing missing endangered person advisories. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

SECTION 1. EDUCATIONAL NEEDS OF CERTAIN CHILDREN UNDER JUVENILE COURT JURISDICTION, DEPARTMENTS TO CONDUCT A STUDY — REPORT, CONTENTS. — For the purpose of promoting and improving the social, emotional, and educational welfare of pupils under the jurisdiction of the juvenile court or family court under subdivisions (1), (2), or (5) of subsection 211.031, RSMo, the department of elementary and secondary education shall, in conjunction with the department of social services, conduct a study to determine the means of ensuring that such children's educational needs are met in terms of setting and amount, and submit a report on the study to the governor and Missouri general assembly on or before November 1, 2007.

2. The report shall include, but not be limited to, the following:

(1) Recommendations relating to detailed procedures and timetables to determine the appropriate amount of hours in a school day for the specific child;

(2) Recommendations on determining the appropriateness of the education for such children described under this section who do not have individualized education programs or are without a pending referral for special education services; and

(3) Recommendations for determining the responsibility, financial or otherwise, among either the local school district and child placing agency or both as to the proper and timely placement of such children in an appropriate educational setting.

[210.570. TEXT OF COMPACT. — Within sixty days after sections 210.570 to 210.600 become effective, the governor, by and with the advice and consent of the senate, shall appoint three commissioners to enter into a compact on behalf of the state of Missouri with other states. If the senate is not in session at the time for making such appointments, the governor shall make temporary appointments as in the case of a vacancy. Any two of the commissioners so appointed together with the attorney general of the state of Missouri may act to enter into the following compact:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health,

morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperative and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such

juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of

commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of the issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent

juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b) or VII(d) of this compact.

ARTICLE IX

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.**]**

[210.595. DELINQUENT JUVENILE DEFINED. — The term "delinquent juvenile" as used in the interstate compact on juveniles includes those persons subject to the jurisdiction of the juvenile court within the meaning of subdivisions (1) and (2) of section 211.031, RSMo.**]**

[210.600. APPLICATION FOR APPROVAL OF COMPACT BY CONGRESS — BINDING PRIOR TO APPROVAL. — The commission shall have power to apply to the Congress of the United States for its consent and approval of the compact; but in the absence of such consent of Congress and until the same shall have been secured, the compact shall be binding upon the state of Missouri in all respects permitted by law for the signatory states without the consent of Congress to cooperate, for the purposes enumerated in the compact, and in the manner provided therein.**]**

[210.610. INTERSTATE RETURN OF JUVENILES CHARGED WITH DELINQUENCY FOR CRIMINAL VIOLATION CONSTITUTING A FELONY. — 1. This section shall provide remedies, and shall be binding only as among and between those party states which specifically adopt a similar section.

2. All provisions and procedures of article V and article VI of section 210.570 shall be construed to apply to any juvenile charged with being a delinquent by reason of violating any criminal law which constitutes a felony. Any juvenile charged with being a delinquent by reason of violating any criminal law which constitutes a felony shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the requesting state before or after the filing of the petition. The requisition described in article V of section 210.570 shall be forwarded by the judge of the court in which the petition has been filed.**]**

[210.630. DEFINITIONS — GOVERNOR'S APPOINTMENT OF ADMINISTRATOR AUTHORIZED. — 1. The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean Division of Family Services, and said Division of Family Services shall receive and act with reference to notices required by said Article III.

2. As used in paragraph (a) of Article V "appropriate authority in the receiving state" shall mean the Division of Family Services.

3. As used in Article VII of the Interstate Compact on the Placement of Children the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.**]**

[210.700. DEFINITIONS. — As used in sections 210.700 to 210.760, the following words and terms shall have the meanings indicated:

(1) "Child" shall mean a person under the age of eighteen years whose custody has been committed to an authorized agency by an order of a judge, or by a surrender agreement, or who

has been committed temporarily to the care of an authorized agency by a parent, guardian or relative within the second degree of consanguinity.

(2) "Foster care" shall mean care provided a child in a foster home, a group home, agency, child care institution, or any combination thereof.**]**

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 210.620, 210.622, 210.625, 210.635, and 210.640 of section A of this act, and the repeal of sections 210.630 and 210.700 of section A of this act shall become effective August 28, 2007, or upon legislative enactment of the compact into law by no less than thirty-five states, whichever later occurs.

Approved June 21, 2007

SB 86 [CCS#2 HCS SCS SB 86]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of the Children in Crisis Tax Credit Program

AN ACT to repeal sections 135.327 and 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits, with an emergency clause for a certain section.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.327 and 135.1150, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.327 and 135.1150, to read as follows:

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — DEFINITIONS — NONRECURRING ADOPTION EXPENSES, AMOUNT — INDIVIDUAL AND BUSINESS ENTITIES TAX CREDIT, AMOUNT, TIME FOR FILING APPLICATION — ASSIGNMENT OF TAX CREDIT, WHEN — CHILDREN IN CRISIS TAX CREDIT, AMOUNT, VERIFICATION, TIME FOR FILING — AMOUNT OF TAX CREDITS REDEEMED, ALLOCATION, AVAILABILITY OF UNCLAIMED ALLOCATIONS — APPLICATION PROCEDURE — CREDIT DENIAL RESULTING IN BALANCE DUE — APPROPRIATION CALCULATION — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. As used in this section, the following terms shall mean:

(1) "CASA", an entity which receives funding from the court-appointed special advocate fund established under section 476.777, RSMo**, including an association based in this state, affiliated with a national association, organized to provide support to entities receiving funding from the court appointed special advocate fund**;

(2) "Child advocacy centers", the regional child assessment centers listed in subsection 2 of section 210.001, RSMo;

(3) "Contribution", amount of donation to qualified agency;

(4) "Crisis care **center**", **entities contracted with this state which provide** temporary care for children whose age ranges from birth through seventeen years of age whose parents or guardian are experiencing an unexpected and unstable or serious condition that requires immediate action resulting in short term care, usually three to five continuous, uninterrupted days, for children who may be at risk for child abuse, neglect, or in an emergency situation;

(5) "Department", the department of revenue;

(6) "Director", the director of the department of revenue;

(7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;

(8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes withheld under sections 143.191 to 143.265, RSMo.

2. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo; provided, however, that beginning on or after July 1, 2004, two million dollars of the tax credits allowed shall be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

4. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars. The cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses shall not be **[**less**]** **more** than four million dollars but may be increased by appropriation in any **[**one**]** fiscal year beginning on or after July 1, 2004; provided, however, that by December thirty-first following each July, if less than two million dollars in credits have been issued for adoption of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated, the remaining amount of the cap shall be available for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and April fifteenth of each fiscal year. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are not residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and December thirty-first of each fiscal year.

5. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

6. The director of revenue shall establish a procedure by which, for each fiscal year, the cumulative amount of tax credits authorized in this section is equally apportioned among all taxpayers within the two categories specified in subsection 3 of this section claiming the credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers within each category can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

7. For all tax years beginning on or after January 1, 2006, a tax credit may be claimed in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall be named the children in crisis tax credit. The minimum amount of any tax credit issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to the taxpayer by the agency receiving the contribution. Such contribution verification shall include the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the name and address of the agency receiving the credit, and the date the contribution was made. The tax credit provided under this subsection shall be initially filed **[**in**]** **for** the year in which the verified contribution is made.

8. The cumulative amount of the tax credits redeemed shall not exceed the unclaimed portion of the resident adoption category allocation as described in this section. The director of revenue shall determine the unclaimed portion available. The amount available shall be equally divided among the **[**agencies meeting the definition of qualified agency**]** **three qualified agencies: CASA, child advocacy centers, or crisis care centers** to be used towards tax credits issued. In the event tax credits claimed under one agency do not total the allocated amount for that agency, the unused portion for that agency will be made available to the remaining agencies **[**as needed**]** **equally**. In the event the total amount of tax credits claimed **for any one agency** exceeds the amount available **for that agency**, the amount redeemed shall and will be apportioned equally to all eligible taxpayers claiming the credit **under that agency**. After all children in crisis tax credits have been claimed, any remaining unclaimed portion of the reserved allocation for adoptions of special needs children who are residents or wards of residents of this state shall then be made available for adoption tax credit claims of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated.

9. Prior to December thirty-first of each year, the entities listed under the definition of qualified agency shall apply to the department of social services in order to verify their qualified agency status. Upon a determination that the agency is eligible to be a qualified agency, the department of social services shall provide a letter of eligibility to such agency. No later than February first of each year, the department of social services shall provide a list of qualified agencies to the department of revenue. All tax credit applications to claim the children in crisis tax credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall apply for the children in crisis tax credit by attaching a copy of the contribution verification provided by a qualified agency to such taxpayer's income tax return.

10. The tax credits provided under this section shall be subject to the provisions of section 135.333.

11. (1) In the event a credit denial, due to lack of available funds, causes a balance-due notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer will not be held liable for any penalty or interest, provided the balance is paid, or approved payment arrangements have been made, within sixty days from the notice of denial.

(2) In the event the balance is not paid within sixty days from the notice of denial, the remaining balance shall be due and payable under the provisions of chapter 143, RSMo.

12. The director shall calculate the level of appropriation necessary to issue all tax credits for nonresident special needs adoptions applied for under this section and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the division of budget and planning in the office of administration by January thirty-first of each year.

13. The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under subsections 7 to 12 of this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.1150. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERABILITY OF CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible **[**monetary**]** donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. **Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services.** For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible **[**monetary**]** donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible **[**monetary donations**]** **donation** made to facilities or locations of the agency which are licensed and accredited;

(5) "Taxpayer", any of the following individuals or entities who make **an** eligible **[**monetary donations**]** **donation** to an agency:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143, RSMo;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147, RSMo;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148, RSMo;

(e) An individual subject to the state income tax imposed in chapter 143, RSMo.

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible **[**monetary**]** donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible **[**monetary**]** donation received, which shall include the name and taxpayer identification number of the individual making the eligible **[**monetary**]** donation, the amount of the eligible **[**monetary**]** donation, and the date the eligible **[**monetary**]** donation was received by the agency; and

(3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed forty percent of the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the appropriate allocation of the tax credits under the children in crisis tax credit program, the repeal and reenactment of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 30, 2007

SB 91 [SCS SB 91]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts dealers who sell only emergency vehicles from certain dealer licensure requirements

AN ACT to repeal sections 301.550 and 301.560, RSMo, and to enact in lieu thereof two new sections relating to the sole purpose of exempting dealers who sell emergency vehicles from certain dealer licensure requirements.

SECTION
A. Enacting clause.
301.550. Definitions — classification of dealers.
301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates — proof of educational seminar required, exceptions, contents of seminar.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.550 and 301.560, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 301.550 and 301.560, to read as follows:

301.550. DEFINITIONS — CLASSIFICATION OF DEALERS. — 1. The definitions contained in section 301.010 shall apply to sections 301.550 to 301.573, and in addition as used in sections 301.550 to 301.573, the following terms mean:

(1) "Boat dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer, whether or not the vessel or vessel trailer is owned by such person. The sale of six or more vessels or vessel trailers or both in any calendar year shall be required as evidence that such person is eligible for licensure as a boat dealer under sections 301.550 to 301.573. The boat dealer shall demonstrate eligibility for renewal of his license by selling six or more vessels or vessel trailers or both in the prior calendar year while licensed as a boat dealer pursuant to sections 301.550 to 301.573;

(2) "Boat manufacturer", any person engaged in the manufacturing, assembling or modification of new vessels or vessel trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of vessels or vessel trailers;

(3) "Department", the Missouri department of revenue;

(4) "Director", the director of the Missouri department of revenue;

(5) **"Emergency vehicles", motor vehicles used as ambulances, law enforcement vehicles, and fire fighting and assistance vehicles;**

(6) "Manufacturer", any person engaged in the manufacturing, assembling or modification of new motor vehicles or trailers as a regular business, including a person, partnership or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of motor vehicles or accessories for motor vehicles;

[(6)**]** **(7)** "Motor vehicle broker", a person who holds himself out through solicitation, advertisement, or otherwise as one who offers to arrange a transaction involving the retail sale of a motor vehicle, and who is not:

(a) A dealer, or any agent, or any employee of a dealer when acting on behalf of a dealer;

(b) A manufacturer, or any agent, or employee of a manufacturer when acting on behalf of a manufacturer;

(c) The owner of the vehicle involved in the transaction; or

(d) A public motor vehicle auction or wholesale motor vehicle auction where buyers are licensed dealers in this or any other jurisdiction;

[(7)**]** **(8)** "Motor vehicle dealer" or "dealer", any person who, for commission or with an intent to make a profit or gain of money or other thing of value, sells, barters, exchanges, leases or rents with the option to purchase, or who offers or attempts to sell or negotiates the sale of motor vehicles or trailers whether or not the motor vehicles or trailers are owned by such person; provided, however, an individual auctioneer or auction conducted by an auctioneer licensed pursuant to chapter 343, RSMo, shall not be included within the definition of a motor vehicle dealer. The sale of six or more motor vehicles or trailers in any calendar year shall be required as evidence that such person is engaged in the motor vehicle business and is eligible for licensure as a motor vehicle dealer under sections 301.550 to 301.573;

[(8)**]** **(9)** "New motor vehicle", any motor vehicle being transferred for the first time from a manufacturer, distributor or new vehicle dealer which has not been registered or titled in this state or any other state and which is offered for sale, barter or exchange by a dealer who is franchised to sell, barter or exchange that particular make of motor vehicle. The term "new motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(9)**]** **(10)** "New motor vehicle franchise dealer", any motor vehicle dealer who has been franchised to deal in a certain make of motor vehicle by the manufacturer or distributor of that make and motor vehicle and who may, in line with conducting his business as a franchise dealer, sell, barter or exchange used motor vehicles;

[(10)**]** **(11)** "Person" includes an individual, a partnership, corporation, an unincorporated society or association, joint venture or any other entity;

[(11)**]** **(12)** "Powersport dealer", any motor vehicle dealer who sells, either pursuant to a franchise agreement or otherwise, primarily motor vehicles including but not limited to motorcycles, all-terrain vehicles, and personal watercraft, as those terms are defined in this chapter and chapter 306, RSMo;

[(12)**]** **(13)** "Public motor vehicle auction", any person, firm or corporation who takes possession of a motor vehicle whether by consignment, bailment or any other arrangement, except by title, for the purpose of selling motor vehicles at a public auction by a licensed auctioneer;

[(13)**]** **(14)** "Storage lot", an area, within the same city or county where a dealer may store excess vehicle inventory;

[(14)**]** **(15)** "Used motor vehicle", any motor vehicle which is not a new motor vehicle, as defined in sections 301.550 to 301.573, and which has been sold, bartered, exchanged or given away or which may have had a title issued in this state or any other state, or a motor vehicle so used as to be what is commonly known as a secondhand motor vehicle. In the event of an assignment of the statement of origin from an original franchise dealer to any individual or other motor vehicle dealer other than a new motor vehicle franchise dealer of the same make, the vehicle so assigned shall be deemed to be a used motor vehicle and a certificate of ownership

shall be obtained in the assignee's name. The term "used motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;

[(15)**]** **(16)** "Used motor vehicle dealer", any motor vehicle dealer who is not a new motor vehicle franchise dealer;

[(16)**]** **(17)** "Vessel", every boat and watercraft defined as a vessel in section 306.010, RSMo;

[(17)**]** **(18)** "Vessel trailer", any trailer, as defined by section 301.010 which is designed and manufactured for the purposes of transporting vessels;

[(18)**]** **(19)** "Wholesale motor vehicle auction", any person, firm or corporation in the business of providing auction services solely in wholesale transactions at its established place of business in which the purchasers are motor vehicle dealers licensed by this or any other jurisdiction, and which neither buys, sells nor owns the motor vehicles it auctions in the ordinary course of its business. Except as required by law with regard to the auction sale of a government owned motor vehicle, a wholesale motor vehicle auction shall not provide auction services in connection with the retail sale of a motor vehicle;

[(19)**]** **(20)** "Wholesale motor vehicle dealer", a motor vehicle dealer who sells motor vehicles only to other new motor vehicle franchise dealers or used motor vehicle dealers or via auctions limited to other dealers of any class.

2. For purposes of sections 301.550 to 301.573, neither the term "motor vehicle" nor the term "trailer" shall include manufactured homes, as defined in section 700.010, RSMo.

3. Dealers shall be divided into classes as follows:

(1) Boat dealers;

(2) Franchised new motor vehicle dealers;

(3) Used motor vehicle dealers;

(4) Wholesale motor vehicle dealers;

(5) Recreational motor vehicle dealers;

(6) Historic motor vehicle dealers;

(7) Classic motor vehicle dealers; and

(8) Powersport dealers.

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES — PROOF OF EDUCATIONAL SEMINAR REQUIRED, EXCEPTIONS, CONTENTS OF SEMINAR. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. When the application is being made for licensure as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, certification shall be performed by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department. A bona fide established place of business for

any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name of the business set forth in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department. When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty**. Dealers who sell only emergency vehicles as defined in section 301.550 are exempt from maintaining a bona fide place of business, including the related law enforcement certification requirements, and from meeting the minimum yearly sales**;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary;

except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers. . . . . D-0 through D-999
New motor vehicle franchise and
commercial motor vehicle. . . . . D-1000 through D-1999
Used motor vehicle dealers. . . . . D-2000 through D-5399
. . . . . and D-6000 through D-9999
Wholesale motor vehicle dealers. . . . . W-1000 through W-1999
Wholesale motor vehicle auctions. . . . . W-2000 through W-2999
Trailer dealers. . . . . T-0 through T-9999
Motor vehicle and trailer manufacturers. . . . . M-0 through M-9999
Motorcycle dealers. . . . . D-5400 through D-5999
Public motor vehicle auctions. . . . . A-1000 through A-1999
Boat dealers and boat manufacturers. . . . . B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

9. (1) Beginning August 28, 2006, every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and retail auto auctions shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to new motor vehicle franchise dealers or a motor vehicle leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce, and administer sections 301.550 to 301.570, and any other rules and regulations promulgated by the department.

Approved June 30, 2007

SB 112 [HCS SS SB 112]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the reference to sunset of the statute that provides authority for special education of the ages 3 to 21 population

AN ACT to repeal sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.431, 162.675, 162.700, and 376.1218, RSMo, and to enact in lieu thereof twelve new sections relating to special education, with an expiration date for a certain section.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.431, 162.675, 162.700, and 376.1218, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.932, 160.933, 162.431, 162.675, 162.700, and 376.1218, to read as follows:

160.900. PARTICIPATION — LEAD AGENCY DESIGNATION — RULEMAKING AUTHORITY. — 1. The state of Missouri shall participate in the federal Infant and Toddler Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services to infants and toddlers determined eligible under state regulations.

2. The state agency designated by the governor as the lead agency shall be responsible for the administration and implementation of Part C of IDEA through a regional Part C early intervention system and shall promulgate rules implementing the requirements of Part C of IDEA consistent with federal regulations, 34 C.F.R. 303, et seq.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 160.900 to 160.925 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 160.900 to 160.925 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 1, 2005, shall be invalid and void.

4. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.905. STATE INTERAGENCY COORDINATING COUNCIL ESTABLISHED, MEMBERS, MEETINGS, DUTIES. — 1. The lead agency shall establish a "State Interagency Coordinating Council" for the state Part C early intervention system. The composition of the council shall include the members required under Part C of the IDEA consistent with federal regulations, 34 C.F.R. 303.601, appointed by the governor.

2. The state interagency coordinating council shall meet at least quarterly and shall comply with chapter 610, RSMo.

3. The state interagency coordinating council shall advise and assist the lead agency pursuant to IDEA requirements, 34 C.F.R. 303.650 to 303.654.

4. The state interagency coordinating council shall assist the lead agency in the preparation and submission of an annual report to the governor and to the secretary of the United States Department of Education on the status of infant and toddler early intervention programs in the state and report any recommendations for improvements to such programs.

5. The lead agency, in consultation with any other state agencies involved in the Part C early intervention system, shall submit rules and regulations, other than emergency rules and regulations, to the council for review prior to the lead agency's final approval. The council shall review all proposed rules and regulations and report its recommendations thereon to the lead agency within thirty days. The lead agency shall respond to the council's recommendations providing reasons for proposed rules and regulations that are not consistent with the council's recommendations.

6. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.910. LEAD AGENCY TO MAINTAIN PART C EARLY INTERVENTION SYSTEM — COMPILATION OF DATA — MONITORING OF EXPENDITURES — BIDDING PROCESS TO BE ESTABLISHED — CENTRALIZED SYSTEM OF ENROLLMENT. — 1. The lead agency shall maintain a state Part C early intervention system under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq., for eligible children and families of such children which shall be administered through the regional Part C early intervention system.

2. The lead agency shall compile data in the system on the number of eligible children in the state in need of early intervention services, the number of eligible children and their families served, the types of services provided, and other information as deemed necessary by the agency.

3. The state Part C early intervention system shall include a comprehensive child-find system and public awareness program to ensure that eligible children are identified, located, referred to the system, and evaluated for eligibility.

4. The lead agency shall monitor system expenditures for administrative services and regional offices to ensure maximum utilization of state funds for all children determined to be eligible for early intervention services. The lead agency or its designee shall provide regional offices with the necessary financial data to assist regional offices in monitoring their expenditures and the cost of direct services. Such data shall include the number of children eligible from the most recent child count from that region and monthly data reports on the costs spent by providers in their network.

5. The lead agency shall establish a bidding process for determining regional offices across the state. The bidding process shall establish criteria for allowing regions to implement models that will serve the unique needs of their community. Such process shall encourage organizations bidding for a center to demonstrate agreements:

(1) With other state and local government entities that provide services to infants and toddlers with developmental disabilities including regional centers as defined in section 633.005, RSMo, and boards established under sections 205.968 to 205.973, RSMo; and

(2) To collaborate with established, quality early intervention providers in the region to establish a network for early intervention services.

6. The lead agency shall establish a centralized system of provider enrollment to assure that all Part C early intervention system providers meet requirements of Part C regulations and the Missouri state plan.

7. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.915. REGIONAL OFFICE PROPOSALS, CONTENTS. — 1. Each regional office shall include in their proposal the following assurances and documentation of their plan to:

(1) Provide those functions that are specifically identified under federal and state regulations implementing Part C of IDEA, 20 U.S.C. Section 1431, as functions to be provided at public expense, with no cost to the parent;

(2) Contract with established community early intervention providers or hire providers as geographic necessity requires to ensure all services are available and accessible within the region;

(3) Implement a system of provider oversight to ensure:

(a) That all services are available and accessible within that region including the use of providers hired by the regional office where geographic necessity requires this practice; and

(b) Compliance by all providers in the regional office's provider network, including but not limited to upholding the requirements of Part C of IDEA;

(4) Include in each child's individual family service plan family-oriented approaches to support the child's developmental goals;

(5) Incorporate as the focus of the individualized family service plan best available practices and coaching approaches that support the family's capacity to meet the developmental needs of their child;

(6) Develop or maintain resources or utilize multiple funding sources for providing early intervention services for children with disabilities in the region for which they are bidding; and

(7) Implement a system for reutilization of assistive technology devices and oversight of assistive technology authorizations.

2. The lead agency may determine other assurances and request additional documentation they deem to be necessary and reasonable to achieve the purpose of this section and to comply with applicable federal law and regulation.

3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.920. FUNDING LIMITATIONS — THIRD-PARTY PAYERS — SCHEDULE OF FEES FOR FAMILY COST PARTICIPATION — COLLECTION OF FEES. — 1. No funds appropriated to the lead agency for the implementation and administration of sections 160.900 to 160.925 shall be used to satisfy a financial commitment for services that should have been paid from another public or private source. Federal funds available under Part C of the IDEA, 20 U.S.C. Section 1431, et seq., shall be used whenever necessary to prevent the delay of early intervention services to the eligible child or family. When funds are used to reimburse the service provider to prevent a delay of the provision of services, the funds shall be recovered from the public or private source that has ultimate responsibility for the payment.

2. Nothing in this section shall be construed to permit any other state agency providing medically related services to reduce medical assistance to eligible children.

3. Payments for the provision of direct early intervention services to children and families shall be paid in the manner prescribed by the lead agency.

4. The lead agency shall promulgate rules for the reimbursement of services from all third-party payers, both private and public.

5. The lead agency or its designee shall, in the first instance and where applicable, seek payment from all third-party payers prior to claiming payment from the state Part C early intervention system for services rendered to eligible children.

6. The lead agency or its designee may pay required deductibles, co-payments, coinsurance or other out-of-pocket expenses for a Part C early intervention program eligible child directly to a provider.

7. The lead agency shall promulgate rules that establish a schedule of monthly cost participation fees for early intervention services per qualifying family regardless of the number of children participating or the amount of services provided. Such fees shall not include services to be provided to the family at no cost as established in Part C of IDEA, 20 U.S.C. Section 1431, et seq. Fees shall be based on a sliding scale to become effective October 1, 2005, that contemplates the following elements:

(1) Adjusted gross income, family size, financial hardship and Medicaid eligibility with the fee implementation beginning at two hundred percent of the federal poverty guidelines;

(2) A minimum fee amount of five dollars to the maximum amount of one hundred dollars monthly, with the lead agency retaining the right to revise the fee schedule no earlier than the third year after the family cost participation effective date;

(3) An increased fee schedule for parents who have insurance and elect not to assign such right of recovery or indemnification to the lead agency;

(4) Procedures for notifying the regional office that a family is not complying with the cost participation fee and procedures for suspending services.

8. All amounts generated by family cost participation, insurance reimbursements, and Medicaid reimbursement shall be deposited to the fund created in section 160.925.

9. The lead agency may assign the collection of early intervention participation fees, payments, and public or private insurance to a designee, contractor, provider, third-party agent, or designated clearinghouse participating in the Part C early intervention system. Such fees, payments, or insurance amounts shall be paid to the department, its designee, contractor, provider, third-party agent, or designated clearinghouse in a timely manner. Notice of collection procedures, schedule of fees or payments, and guidelines for inability to pay shall be made available to parents of eligible children.

10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.925. FUND CREATED, USE OF MONEYS — TRANSFER OF MONEYS. — 1. There is hereby created in the state treasury the "Part C Early Intervention System Fund" for implementing the provisions of sections 160.900 to 160.925. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri Constitution. The state treasurer shall be custodian of the fund and shall disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 160.900 to 160.925. **[**Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**]** The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

160.932. PILOT PROGRAM FOR A PART-TIME CHILD-FIND COORDINATOR (ST. LOUIS). — 1. Subject to appropriations, the department of elementary and secondary education shall implement a pilot program allowing the regional interagency coordinating council

of the greater St. Louis system point of entry to hire a part-time child-find coordinator to conduct the child-find requirements under subsection 3 of section 160.910 for the region. The part-time child-find coordinator shall be hired, selected, and employed by the regional interagency coordinating council of the greater St. Louis system point of entry by July 1, 2008.

2. By September 1, 2010, the greater St. Louis system point of entry shall conduct a study on the effect of hiring the child-find coordinator under this section. The study shall be submitted to the department, the state interagency coordinating council and the general assembly.

3. The provisions of this section shall expire on September 1, 2011.

160.933. PROGRAM FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. There is hereby created in the state treasury the "Part C Early Intervention Pilot Program Fund" for implementing the provisions of section 160.932. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for administration of section 160.932. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. The department of elementary and secondary education shall promulgate rules to implement the provisions of section 160.932. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

162.431. BOUNDARY CHANGE — PROCEDURE — ARBITRATION — COMPENSATION OF ARBITRATORS — RESUBMISSION OF CHANGES RESTRICTED. — 1. When it is necessary to change the boundary lines between seven-director school districts, in each district affected, ten percent of the voters by number of those voting for school board members in the last annual school election in each district may petition the district boards of education in the districts affected, regardless of county lines, for a change in boundaries. The question shall be submitted at the next **[**general municipal**]** election**, as the term "election" is defined in section 115.123, RSMo**.

2. The voters shall decide the question by a majority vote of those who vote upon the question. If assent to the change is given by each of the various districts voting, each voting separately, the boundaries are changed from that date.

3. If one of the districts votes against the change and the other votes for the change, the matter may be appealed to the state board of education, in writing, within fifteen days of the submission of the question by either one of the districts affected, or in the above event by a majority of the signers of the petition requesting a vote on the proposal. At the first meeting of

the state board following the appeal, a board of arbitration composed of three members, none of whom shall be a resident of any district affected, shall be appointed. In determining whether it is necessary to change the boundary line between seven-director districts, the board of arbitration shall base its decision upon the following:

(1) The presence of school-aged children in the affected area;

(2) The presence of actual educational harm to school-aged children, either due to a significant difference in the time involved in transporting students or educational deficiencies in the district which would have its boundary adversely affected; and

(3) The presence of an educational necessity, not of a commercial benefit to landowners or to the district benefitting for the proposed boundary adjustment**.**

4. If the potential receiving district obtained a score consistent with the criteria for classification of the district as "accredited" on its most recent annual performance report and the potential sending district obtained a score consistent with the criteria for classification of the district as "unaccredited" on its most recent annual performance report, the board shall approve the proposed boundary change for the educational well-being of the children enrolled in the potential sending district.

[4.**]** **5.** Within twenty days after notification of appointment, the board of arbitration shall meet and consider the necessity for the proposed changes and shall decide whether the boundaries shall be changed as requested in the petition or be left unchanged, which decision shall be final. The decision by the board of arbitration shall be rendered not more than thirty days after the matter is referred to the board. The chairman of the board of arbitration shall transmit the decision to the secretary of each district affected who shall enter the same upon the records of his district and the boundaries shall thereafter be in accordance with the decision of the board of arbitration. The members of the board of arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the appeal is made by the district taking the appeal or by the petitioners should they institute the appeal.

[5.**]** **6.** If the board of arbitration decides that the boundaries shall be left unchanged, no new petition for the same, or substantially the same, boundary change between the same districts shall be filed until after the expiration of two years from the date of the municipal election at which the question was submitted to the voters of the districts.

162.675. DEFINITIONS. — As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) **"Children with disabilities" or "handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services;**

(2) "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade level curriculum;

[(2) "Handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services;**]**

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who meet the eligibility criteria for state schools for severely handicapped children, identified in state regulations that implement the Individuals with Disabilities Education Act;

(4) "Special educational services", programs designed to meet the needs of **children with disabilities or** handicapped or severely handicapped children and which include, but are not limited to, the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

162.700. SPECIAL EDUCATIONAL SERVICES, REQUIRED, WHEN — DIAGNOSTIC REPORTS, HOW OBTAINED — EVALUATIONS OF PRIVATE SCHOOL STUDENTS WITH DISABILITIES — SPECIAL SERVICES, AGES THREE AND FOUR — REMEDIAL READING PROGRAM, HOW FUNDED. — 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for **[**handicapped**]** children **with disabilities** three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be **[**handicapped**] a child with disabilities**, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for **[**handicapped**]** children **with disabilities** three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three and four years of age with **[**handicaps**] disabilities**. The planning process shall include public, private**,** and private not-for-profit agencies which have provided such services for this population. The school district, or school districts, or special school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private**,** and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each **[**handicapped**] with disabilities** child prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological**,** or other professional personnel.

3. Evaluations of private school students suspected of having a disability under the Individuals With Disabilities Education Act will be conducted as appropriate by the school district in which the private school is located or its contractor.

4. Where special districts have been formed to serve **[**handicapped**]** children **with disabilities** under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for **[**handicapped**]** children **with disabilities** ages three and four inclusive in accordance with regulations and standards adopted by the state board of education.

5. For the purposes of this act, remedial reading programs are not a special education service as defined by subdivision (4) of section 162.675.

6. Any and all state costs required to fund special education services for three- and four-year-old children **[**pursuant to**] under** this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

7. School districts providing early childhood special education shall give consideration to the value of continuing services with Part C early intervention system providers for the remainder of the school year when developing an individualized education program for a student who has received services **[**pursuant to**] under** Part C of the Individuals With Disabilities Education Act and reaches the age of three years during a regular school year. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly **[**pursuant to**]** **under** chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

376.1218. INSURANCE COVERAGE FOR CHILDREN ENROLLED IN THE PART C EARLY INTERVENTION SYSTEM (FIRST STEPS). — 1. Any health carrier or health benefit plan that offers or issues health benefit plans, other than Medicaid health benefit plans, which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2006, shall provide coverage for early intervention services described in this section that are delivered by early intervention specialists who are health care professionals licensed by the state of Missouri and acting within the scope of their professions for children from birth to age three identified by the Part C early intervention system as eligible for services under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Such coverage shall be limited to three thousand dollars for each covered child per policy per calendar year, with a maximum of nine thousand dollars per child.

2. As used in this section, "health carrier" and "health benefit plan" shall have the same meaning as such terms are defined in section 376.1350.

3. In the event that any health benefit plan is found not to be required to provide coverage under subsection 1 of this section because of preemption by a federal law, including but not limited to the act commonly known as ERISA contained in Title 29 of the United States Code, or in the event that subsection 1 of this section is found to be unconstitutional, then the lead agency shall be responsible for payment and provision of any benefit provided under this section.

4. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy, and assistive technology devices for children from birth to age three who are identified by the Part C early intervention system as eligible for services under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Early intervention services shall include services under an active individualized family service plan that enhance functional ability without effecting a cure. An individualized family service plan is a written plan for providing early intervention services to an eligible child and the child's family that is adopted in accordance with 20 U.S.C. Section 1436. The Part C early intervention system, on behalf of its contracted regional Part C early intervention system centers and providers, shall be considered the rendering provider of services for purposes of this section.

5. No payment made for specified early intervention services shall be applied by the health carrier or health benefit plan against any maximum lifetime aggregate specified in the policy or health benefit plan if the carrier opts to satisfy its obligations under this section under subdivision (2) of subsection 7 of this section. A health benefit plan shall be billed at the applicable Medicaid rate at the time the covered benefit is delivered, and the health benefit plan shall pay the Part C early intervention system at such rate for benefits covered by this section. Services under the Part C early intervention system shall be delivered as prescribed by the individualized family service plan and an electronic claim filed in accordance with the carrier's or plan's standard format. Beginning January 1, 2007, such claims' payments shall be made in accordance with the provisions of sections 376.383 and 376.384.

6. The health care service required by this section shall not be subject to any greater deductible, co-payment, or coinsurance than other similar health care services provided by the health benefit plan.

7. (1) Subject to the provisions of this section, payments made during a calendar year by a health carrier or group of carriers affiliated by or under common ownership or control to the Part C early intervention system for services provided to children covered by the Part C early intervention system shall not exceed one-half of one percent of the direct written premium for health benefit plans as reported to the department of insurance on the health carrier's most recently filed annual financial statement.

(2) In lieu of reimbursing claims under this section, a carrier or group of carriers affiliated by or under common ownership or control may, on behalf of all of the carrier's or carriers' health benefit plan or plans providing coverage under this section, directly pay the Part C early intervention system by January thirty-first of the calendar year an amount equal to one-half of one percent of the direct written premium for health benefit plans as reported to the department of insurance on the health carrier's most recently filed annual financial statement, or five hundred thousand dollars, whichever is less, and such payment shall constitute full and complete satisfaction of the health benefit plan's obligation for the calendar year. Nothing in this subsection shall require a health carrier or health benefit plan providing coverage under this section to amend or modify any provision of an existing policy or plan relating to the payment or reimbursement of claims by the health carrier or health benefit plan.

8. This section shall not apply to a supplemental insurance policy, including a life care contract, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, hospitalization-surgical care policy, policy that is individually underwritten or provides such coverage for specific individuals and members of their families, long-term care policy, or short-term major medical policies of six months or less duration.

9. Except for health carriers or health benefit plans making payments under subdivision (2) of subsection 7 of this section, the department of insurance shall collect data related to the number of children receiving private insurance coverage under this section and the total amount of moneys paid on behalf of such children by private health carriers or health benefit plans. The department shall report to the general assembly regarding the department's findings no later than January 30, 2007, and annually thereafter.

10. Notwithstanding the provisions of section 23.253, RSMo, to the contrary, the provisions of this section shall not sunset.

[160.930. SUNSET PROVISION (FIRST STEPS). — Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall automatically sunset two years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall automatically sunset twelve years after the effective date of the reauthorization of sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo; and

(3) Sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 160.900 to 160.925, section 162.700, RSMo, and section 376.1218, RSMo, is sunset.**]**

Approved June 27, 2007

SB 127 [HCS SB 127]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions within the Department of Transportation and Highway Patrol Retirement System

AN ACT to repeal sections 104.040 and 104.160, RSMo, and to enact in lieu thereof two new sections relating to the highway patrol retirement system.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 104.040 and 104.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 104.040 and 104.160, to read as follows:

104.040. MEMBERS TO RECEIVE CREDIT FOR PRIOR SERVICE — MILITARY SERVICE TO BE CONSIDERED — PURCHASE OF CREDIT FOR SERVICE IN THE ARMED FORCES, COST, INTEREST RATE, COMPUTATION — CERTAIN CREDITABLE PRIOR SERVICE, PURCHASE OF, EFFECT — NONFEDERAL PUBLIC EMPLOYMENT, PURCHASE OF CREDIT FOR SERVICE. — 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to **[**104.270**]** **104.272** for all service in the United States Army, Navy, or other armed services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

2. Any member of the system who served as an employee prior to the original effective date of sections 104.010 to **[**104.270**]** **104.272**, but was not an employee on that date, shall be entitled to creditable prior service that such member would have been entitled to had such member become a member of the retirement system on the date of its inception if such member has, or hereafter attains, one year of continuous membership service.

3. Any employee who completes one continuous year of creditable service in the system shall receive credit for service with a state department, if such service has not otherwise been credited.

4. Any member who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after his or her discharge under honorable conditions may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to his or her service in the armed

services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had the member been a member for the period for which the member is electing to purchase credit and had his or her compensation during such period of membership been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from date of employment from which the member could first receive creditable service to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to this subsection shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any uniformed member of the highway patrol who served as a certified police officer prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the police force, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

6. Any **[**uniformed**]** member of the **[**highway patrol**]** **system under section 104.030 or 104.170 who is an active employee and** who served as a nonfederal full-time public employee in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public plan for the service to be purchased**[**, and an affidavit so stating shall be filed by the member with the retirement system**]**. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section. **All purchase payments under this subsection must be completed prior to retirement or prior to termination of employment.**

If a member who purchased creditable service under this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such creditable service. The surviving spouse shall not be eligible for a refund under this subsection if he or she is entitled to survivorship benefits payable under section 104.140. A member who is entitled to a deferred annuity under section 104.035 shall be ineligible to purchase service under this subsection.

104.160. BOARD OF TRUSTEES, MEMBERSHIP — NOMINATIONS AND VOTING RIGHTS OF MEMBERS OF SYSTEM. — The board of trustees shall consist of three members of the state highways and transportation commission elected by the members of the commission. The superintendent of the highway patrol and the director of the department of transportation shall serve as members by virtue of their respective offices, and their successors shall succeed them as members of the board of trustees. In addition, one member of the senate appointed by the president pro tem of the senate and one member of the house of representatives, appointed by the speaker of the house shall serve as members of the board of trustees. In addition to the appointed legislators, two active employee members of the system shall be elected by a plurality vote of the active employee members of the system, herein designated for four-year terms to commence July 1, 1982, and every four years thereafter. One elected member shall be elected from the active employees of the department of transportation and one elected member shall be elected from the active employees of the civilian or uniformed highway patrol. In addition to the two active employee members, **[**one retired member**] two retirees** of the system shall be elected to serve on the board by a plurality vote of the **[**retired members**] retirees** of the system. **[**The retired member**] One retiree** shall be elected by the retired employees of the transportation department and **one retiree shall be elected by** the retired **[**members**] employees** of the civilian or uniformed highway patrol. **[**The first retired member elected to the board shall serve for a term which shall commence on January 1, 1993, and expire on June 30, 1994. Subsequently elected retired members shall serve for four-year terms commencing on July 1, 1994, and every four years thereafter, which shall coincide with the terms of the active employee members of the board.**] The retiree serving on the board on August 28, 2007, shall continue to serve on the board as the representative of the retired employees of the transportation department until June 30, 2010. An election shall be held prior to January 1, 2008, for the retiree to be elected by the retired employees of the civilian or uniformed highway patrol with said term to commence on January 1, 2008, and expire on June 30, 2010. All terms of elected retired employees shall be for four years after June 30, 2010.** The board shall determine the procedures for nomination and election of the elective board members. Nominations may be entered by any member of the system, provided members of the system have a reasonable opportunity to vote.

Approved May 31, 2007

SB 162 [SB 162]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the definition of "state agency" with regard to income tax set offs

AN ACT to repeal section 143.782, RSMo, and to enact in lieu thereof one new section relating to income tax setoffs.

SECTION
A. Enacting clause.
143.782. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 143.782, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.782, to read as follows:

143.782. DEFINITIONS. — As used in sections 143.782 to 143.788, unless the context clearly requires otherwise, the following terms shall mean and include:

(1) "Court", the supreme court, court of appeals, or any circuit court of the state;

(2) "Debt", any sum due and legally owed to any state agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed, or any support obligation which is being enforced by the division of family services on behalf of a person who is receiving support enforcement services pursuant to section 454.425, RSMo;

(3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal entity owing a debt;

(4) "Department", the department of revenue of the state of Missouri;

(5) "Refund", the Missouri income tax refund which the department determines to be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo, unless such refund is being offset for a delinquency or debt relating to individual income tax or a property tax credit; and

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri, including public community college **[**district**]** **districts and housing authorities as defined in section 99.020, RSMo**.

Approved June 13, 2007

SB 163 [HCS#2 SCS SB 163]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions with regards to the Basic Civil Legal Services Fund

AN ACT to repeal sections 477.650, 485.077, and 488.2250, RSMo, and to enact in lieu thereof three new sections relating to legal services, with an expiration date.

SECTION
A. Enacting clause.
477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly.
485.077. Certification of official court reporters required — depositions not prepared by certified reporters, admissibility, expiration.
488.2250. Fees for transcript of notes — judge may order transcript, when — taxing of fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 477.650, 485.077, and 488.2250, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 477.650, 485.077, and 488.2250, to read as follows:

477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY. — 1. There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected **[**pursuant to**]** **under** section 488.031, RSMo, shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal **[**Services' Corporation**]** **Services Corporation's** Income Eligibility Guidelines.

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for **[**federal legal services corporation**]** **Federal Legal Services Corporation** funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal **[**Services' Corporation**]** **Services Corporation's** Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the **[**legal services corporation**]** **Federal Legal Services Corporation** for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the basic civil legal services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by article X, section 15 of the Missouri Constitution. **State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.**

3. Contracts for services with state legal services programs shall provide eligible low-income Missouri citizens with equal access to the civil justice system, with a high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act. State legal services programs shall abide by all restrictions, requirements, and regulations of the Legal Services Corporation regarding their cases.

[3.**]** **4.** The Missouri supreme court, or a person or organization designated by the court, is the administrator and shall administer the fund in such manner as determined by the Missouri supreme court, including in accordance with any rules and policies adopted by the Missouri supreme court for such purpose. Moneys from the fund shall be used to pay for the collection of the fee and the implementation and administration of the fund.

[4.**]** **5.** Each recipient of funds from the basic civil legal services fund shall maintain appropriate records accounting for the receipt and expenditure of all funds distributed and received pursuant to this section. These records must be maintained for a period of five years from the close of the fiscal year in which such funds are distributed or received or until audited, whichever is sooner. All funds distributed or received pursuant to this section are subject to audit by the Missouri supreme court or the state auditor.

[5.**]** **6.** The Missouri supreme court, or a person or organization designated by the court, shall, by January thirty-first of each year, report to the general assembly on the moneys collected and disbursed pursuant to this section and section 488.031, RSMo, by judicial circuit.

7. The provisions of this section shall expire on December 31, 2012.

485.077. CERTIFICATION OF OFFICIAL COURT REPORTERS REQUIRED — DEPOSITIONS NOT PREPARED BY CERTIFIED REPORTERS, ADMISSIBILITY, EXPIRATION. — 1. No judge of

any court in this state shall appoint an official court reporter who is not a court reporter certified by the board of certified court reporter examiners, as provided in Supreme Court Rule 14. In the absence of an official court reporter due to illness, physical incapacity, death, dismissal or resignation, a judge may appoint a temporary court reporter, but such temporary court reporter shall not serve more than six months without obtaining a certificate pursuant to the provisions of Supreme Court Rule 14.

2. No testimony taken in this state by deposition shall be given in any court in this state, and no record on appeal from an administrative agency of this state shall include testimony taken in this state by deposition, unless the deposition is prepared and certified by a certified court reporter, except as provided in Supreme Court Rule 57.03(c).

3. Deposition testimony taken outside the state shall be deemed to be in conformity with this section if the testimony was prepared and certified by a court reporter authorized to prepare and certify deposition testimony in the jurisdiction in which the testimony was taken.

4. This section shall not apply to depositions taken in this state in connection with cases not pending in a Missouri state court or administrative agency at the time the deposition was taken.

5. A deposition prepared by a person who is not a certified court reporter may be used to give testimony in any court in this state under the following circumstances:

(1) All parties must consent in writing to using an uncertified court reporter prior to the deposition. Such consent shall be filed as a memo with the court no later than seven days prior to the date of the deposition unless the time is shortened by the court;

(2) All parties involved in any cause of action wherein the deposition is to be used certify by their signatures or by the signatures of their attorneys that such deposition is a true and correct copy of the testimony given;

(3) The uncertified court reporter shall state on the record that he or she is an uncertified court reporter appearing by consent of the parties;

(4) The uncertified court reporter shall keep a voice recording of the deposition for two years. Upon written request by a party, a copy of the voice recording shall be provided to the requesting party within fourteen days;

(5) The uncertified court reporter shall have made application for the certified court reporter examination and shall have paid all required application fees;

(6) The notice of deposition shall contain a statement that an uncertified court reporter will be used. Such statement shall be in bold fourteen type face on the notice; and

(7) An uncertified court reporter granted privileges under this subsection shall be deemed operating under a temporary certificate.

6. The provisions of subsection 5 of this section shall expire on December 31, 2012.

488.2250. FEES FOR TRANSCRIPT OF NOTES — JUDGE MAY ORDER TRANSCRIPT, WHEN — TAXING OF FEES. — For all transcripts of testimony given or proceedings had in any circuit court, the court reporter shall receive the sum of **[**one dollar and fifty cents**]** **two dollars** per twenty-five line page for the original of the transcript, and the sum of thirty-five cents per twenty-five line page for each carbon copy thereof; the page to be approximately eight and one-half inches by eleven inches in size, with left-hand margin of approximately one and one-half inches and the right-hand margin of approximately one-half inch; answer to follow question on same line when feasible; such page to be designated as a legal page. Any judge, in his **or her** discretion, may order a transcript of all or any part of the evidence or oral proceedings, and the court reporter's fees for making the same shall be paid by the state upon a voucher approved by the court, and taxed against the state. In criminal cases where an appeal is taken by the defendant, and it appears to the satisfaction of the court that the defendant is unable to pay the costs of the transcript for the purpose of perfecting the appeal, the court shall order the court reporter to furnish three transcripts in duplication of the notes of the evidence, for the original of which **[**he**]** **the court reporter** shall receive **[**one dollar and fifty cents**]** **two dollars** per legal

page and for the copies twenty cents per page. The payment of court reporter's fees provided in this section shall be made by the state upon a voucher approved by the court.

Approved July 13, 2007

SB 166 [SB 166]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions relating to tourism

AN ACT to repeal section 407.610, RSMo, and to enact in lieu thereof one new section relating to time-shares.

SECTION

A. Enacting clause.

407.610. Promotion program, notice to attorney general, requirements — unlawful practices — failure to comply, penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 407.610, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.610, to read as follows:

407.610. PROMOTION PROGRAM, NOTICE TO ATTORNEY GENERAL, REQUIREMENTS — UNLAWFUL PRACTICES — FAILURE TO COMPLY, PENALTY. — 1. Any person who intends to use any promotional device or promotional program, including any sweepstakes, gift award, drawing or display booth, or any other such award or prize inducement items, to advertise, solicit sales or sell any time-share period, time-share plan, or time-share property in the state of Missouri or sell any tourist-related services as defined pursuant to subsection **[**8**]** **9** of this section where a consumer is required to provide any consideration other than monetary for such tourist-related services, shall notify the Missouri attorney general in writing of this intention not less than fourteen days prior to release of such materials to the public. Included with such notice shall be an exact copy of each promotional device and promotional program to be used. Each promotional device, promotional program, and the notice thereof shall include the following information:

(1) A statement that the promotional device or promotional program is being used for the purpose of soliciting sales of a time-share period, time-share plan or time-share property;

(2) The date by which all such awards or other prize inducement items will be awarded;

(3) The method by which all such items will be awarded;

(4) The odds of being awarded such items;

(5) The manufacturer's suggested retail price of such items; and

(6) The names and addresses of each time-share plan or business entity participating in the promotional device or promotional program.

2. **In the case of any promotional device or promotional program to advertise, solicit sales, or sell any time-share period, time-share plan, or time-share property in this state, the information required under subsection 1 of this section for each promotional device or promotional program, and the notice thereof, shall be provided in writing or electronically to the prospective purchaser at least once within a reasonable time period before a scheduled sales presentation to ensure that the prospective purchaser receives the information prior to attending such presentation. The required information need not be**

included in every advertisement or other written, oral or electronic communication provided or made to a prospective purchaser before a scheduled sales presentation.

3. Any material change in a promotional device or promotional program previously submitted to the attorney general shall constitute a new promotional device or promotional program and shall be resubmitted to the attorney general with the notice thereof.

[3.**]** **4.** It shall be a violation of section 407.020 for any person to:

(1) Fail to comply with the provisions of the notice requirements of this section;

(2) Provide to the attorney general in the notice required by this section any information that is false or misleading in a material manner;

(3) Represent to any person that the filing of the notice of the promotional device or the promotional program constitute an endorsement or approval of the promotional device or promotional program by the attorney general;

(4) Engage in any act or practice declared to be unlawful by section 407.020 in connection with the use of any promotional device or promotional program or any advertisement, or sale of time-share plans, time-share periods or time-share property.

[4.**]** **5.** At least one of each prize featured in a promotional program shall be awarded by the day and year specified in the promotion. When a promotion promises the award of a certain number of each prize, such number of prizes shall be awarded by the date and year specified in the promotion. A record shall be maintained containing the names and addresses of winners of the prizes and the record shall be made available, upon request, to the public, upon the payment of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site visitation or visitation to a time-share sales office, the inducement gift which was promised, the seller shall deliver the gift, or an acceptable substitute therefor agreed upon in writing, to the prospective purchaser or purchaser no later than ten days following such visitation, or shall deliver instead of such gift cash in an amount equal to the retail value of the gift.

[5.**]** **6.** If a prospective purchaser or purchaser does not receive the gift or the cash as provided in subsection **[**4**]** **5** of this section, he may bring an action under the provisions of section 407.025. For purposes of actions brought pursuant to this section, the term "actual damages", as used in section 407.025, shall mean at least five times the cash retail value of the most expensive gift offered, but shall not exceed one thousand dollars, in addition to such other actual damages as may be determined by the evidence.

[6.**]** **7.** The provisions of sections 407.600 to 407.630 shall not apply to a person who has acquired a time-share period for his own occupancy and later offers it for resale.

[7.**]** **8.** If the sale of a time-share plan or of time-share property is subject to the provisions of sections 407.600 to 407.630, such sale shall not be subject to the provisions of chapter 339, RSMo.

[8.**]** **9.** For the purposes of this section, the term "tourist-related services" includes but is not limited to, selling or entering into contracts or other arrangements under which a purchaser receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment, sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of transportation directly to the consumer.

Approved May 31, 2007

SB 172 [SB 172]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding supplemental retirement benefits for Kansas City police officers and civilian employees

AN ACT to repeal sections 86.1230 and 86.1600, RSMo, and to enact in lieu thereof two new sections relating to the police retirement system and the civilian employees' retirement system of the police department of Kansas City.

SECTION
A. Enacting clause.
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.1230 and 86.1600, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.1230 and 86.1600, to read as follows:

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

3. **[**In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4.**]** For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such

person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of section 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a special consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of

subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2008, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

[5.**]** **7.** The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, **[**supplemental retirement**]** **any** benefit **[**payments under subsection 1 of this section and supplemental**]** compensation payments **[**as a consultant under subsection 2 of**]** **provided under** this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED. — 1. Any member who retires subsequent to August 28, 1997, **and on or before August 28, 2007,** with entitlement to a pension under sections 86.1310 to 86.1640, **and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560,** shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained

as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement**; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service**. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any **[**such**] qualifying** surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

Approved July 13, 2007

SB 195 [SS SB 195]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law relating to the licensing of pharmacists

AN ACT to repeal sections 338.010 and 338.095, RSMo, and to enact in lieu thereof three new sections relating to pharmacists.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 338.010 and 338.095, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 338.010, 338.095, and 338.380, to read as follows:

338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS. — 1. The "practice of pharmacy" **[**shall mean**] means** the interpretation**, implementation,** and evaluation of **medical** prescription orders**, including receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a specific pharmacist**; the compounding, dispensing **[**and**]**, labeling**, and administration** of drugs and devices pursuant to **medical** prescription orders **and administration of viral influenza vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule**; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This assistance in no way is intended to relieve the pharmacist from his responsibilities for compliance with this chapter and he will be responsible for the actions of the auxiliary personnel acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220, RSMo, in the compounding or dispensing of his own prescriptions.

2. **Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, RSMo,**

or from a physician assistant engaged in a supervision agreement under section 334.735, RSMo.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

[3.**]** **4.** Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376, RSMo, shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, RSMo, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a specific pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

338.095. PRESCRIPTION, DRUG ORDER, DEFINED — TELEPHONE PRESCRIPTION, DEFINED — PRESCRIPTION AND MEDICAL INFORMATION MAY BE PROVIDED, WHEN. — 1. The terms "prescription" and "prescription drug order" are hereby defined as a lawful order for medications or devices issued and signed by an authorized prescriber within the scope of his professional practice which is to be dispensed or administered by a pharmacist or dispensed or administered pursuant to section 334.104, RSMo, to and for the ultimate user. The terms "prescription" and "drug order" do not include an order for medication **requiring a prescription**

to be dispensed, which is provided for the immediate administration to the ultimate user or recipient.

2. The term "telephone prescription" is defined as an order for medications or devices transmitted to a pharmacist by telephone or similar electronic medium by an authorized prescriber or his authorized agent acting in the course of his professional practice which is to be dispensed or administered by a pharmacist or dispensed or administered pursuant to section 334.104, RSMo, to and for the ultimate user. A telephone prescription shall be promptly reduced to written or electronic medium by the pharmacist and shall comply with all laws governing prescriptions and record keeping.

3. A licensed pharmacist may lawfully provide prescription or medical information to a licensed health care provider or his agent who is legally qualified to administer medications and treatments and who is involved in the treatment of the patient. The information may be derived by direct contact with the prescriber or through a written protocol approved by the prescriber. Such information shall authorize the provider to administer appropriate medications and treatments.

4. Nothing in this section shall be construed to limit the authority of other licensed health care providers to prescribe, administer, or dispense medications and treatments within the scope of their professional practice.

5. It shall be an unauthorized practice of pharmacy and hence unlawful for any person other than the patient or the patient's authorized representative to accept a prescription presented to be dispensed unless that person is located on a premises licensed by the board as a pharmacy.

338.380. REFUSAL TO ISSUE A CERTIFICATE, WHEN — IMPAIRED LICENSE COMMITTEE AUTHORIZED, DUTIES, PROCEDURES. — 1. As used in this section the term "committee" means the "Well-being Committee" established under subsection 3 of this section.

2. The board may refuse to issue any certificate of registration or authority, permit or license, required under this chapter for one or any combination of causes stated in subsection 2 of section 338.055, or the board may, as a condition to issuing or renewing any such certificate of registration or authority, permit or license, require a person to submit himself or herself for identification, intervention, treatment, or rehabilitation by the well-being committee as provided in this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

3. The board may establish an impaired licensee committee, to be designated as the "Well-being Committee", to promote the early identification, intervention, treatment, and rehabilitation of licensees identified within this chapter, who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement for the purpose of creating, supporting and maintaining such a committee. The board may promulgate rules subject to the provisions of this section to effectuate and implement any committee formed under this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed under this section. Any member of the committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee or by any individual member of the committee.

4. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the committee, as well as communications to or from the

committee, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be absolutely privileged and confidential.

5. All records and proceedings of the committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records under chapter 610, RSMo, and shall only be subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as provided in subsection 6 of this section.

6. The committee may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired licensee and only to those persons or organization with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) The committee is required to make a report to the board; or

(4) The information is subject to a court order.

7. In lieu of the pursuing discipline against a licensee for violating one or more causes stated in subsection 2 of section 338.055, the board may enter into a diversion agreement with a licensee to refer the licensee to the committee under such terms and conditions as are agreed to by the board and licensee. The board shall enter into no more than two diversion agreements with any individual licensee. If the licensee violates a term or condition of a diversion agreement entered into under this section, the board may elect to pursue discipline against the licensee under chapter 621, RSMo, for the original conduct that resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section 338.055. While the licensee participates in the committee, the time limitations of section 620.154, RSMo, shall toll under subsection 7 of section 620.154, RSMo. All records pertaining to diversion agreements are confidential and may only be released under subdivision (7) of subsection 14 of section 620.010, RSMo.

8. The committee shall report to the board the name of any licensee who fails to enter treatment within forty-eight hours following the provider's determination that the pharmacist needs treatment or any failure by a licensee to comply with the terms of a diversion agreement during inpatient or outpatient treatment or aftercare or report a licensee who resumes the practice of pharmacy before the treatment provider has made a clear determination that the pharmacist is capable of practicing according to acceptable and prevailing standards.

9. The board may disclose information and records to the committee to assist the committee in the identification, intervention, treatment, and rehabilitation of any licensee who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The committee shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records as closed to the public under chapter 620, RSMo.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

Approved July 13, 2007

SB 198 [HCS SCS SB 198]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the requirements for cooperative agreements with nonprofit organizations in state parks

AN ACT to repeal section 253.095, RSMo, and to enact in lieu thereof six new sections relating to use of lands, with penalty provisions.

SECTION
A. Enacting clause.
195.217. Crime of distribution of a controlled substance near a park, penalty.
253.095. Interpretive or education services, agreements entered into with not-for-profit organizations for state parks, space provided — net proceeds retained by organization.
253.421. Abandoned materials belong to the state — definitions — rulemaking.
578.520. Private land, permission of owner needed to fish, hunt, or trap, penalty for violation.
578.525. Private land, retrieval of wildlife, permission of owner required — penalty for violation.
578.530. Affirmative defense.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 253.095, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 195.217, 253.095, 253.421, 578.520, 578.525, and 578.530, to read as follows:

195.217. CRIME OF DISTRIBUTION OF A CONTROLLED SUBSTANCE NEAR A PARK, PENALTY. — 1. A person commits the offense of distribution of a controlled substance near a park if such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or municipal park or a public or private park designed for public recreational purposes, as park is defined in section 253.010, RSMo.

2. Distribution of a controlled substance near a park is a class A felony.

253.095. INTERPRETIVE OR EDUCATION SERVICES, AGREEMENTS ENTERED INTO WITH NOT-FOR-PROFIT ORGANIZATIONS FOR STATE PARKS, SPACE PROVIDED — NET PROCEEDS RETAINED BY ORGANIZATION. — In order to further the interpretive or educational functions of Missouri state parks, the director of the Missouri department of natural resources is authorized to enter into agreements with private, not-for-profit organizations that are organized **[**solely**]** to provide cooperative, interpretive**, facility enhancement** or educational services to any **[**one**]** Missouri state park. The director may provide state park facility space **and incidental staff support** to such an organization under a cooperative agreement**, which reimburses the department for the actual costs of such space and incidental staff support and clearly demonstrates the fiscal, interpretive, educational, and facility enhancement benefits to the state**. Net proceeds received from the sale of publications or other materials **and services** provided by an organization pursuant to such an agreement entered into under this section shall be retained by the organization for use in the interpretive or educational services provided **[**to such park that the organization is designated to serve**] in state parks**.

253.421. ABANDONED MATERIALS BELONG TO THE STATE — DEFINITIONS — RULEMAKING. — 1. As used in section 253.420 and this section, the following words and phrases mean:

(1) "Department", the department of natural resources, state historic preservation office;

(2) "Historic shipwreck", artifacts and remains of historic shipwreck sites which are over fifty years in age, including but not limited to a ship's structure and rigging, machinery, hardware, tools, utensils, cargo, personal items of crew passengers, and monetary or treasure trove;

(3) "Lands beneath navigable waters":

(a) All lands within the boundaries of this state which are covered by nontidal waters that are now navigable, or were navigable under the laws of the United States at the time this state became a member of the Union or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, river channel shifts, and reliction;

(b) All filled in, made, or reclaimed lands which formerly were lands beneath navigable waters;

(4) "Shipwreck", a vessel or wreck, its cargo, and other contents, reasonably believed to have wrecked or been abandoned at least fifty years prior to any permit application.

2. Under the Abandoned Shipwreck Act of 1987, 43 U.S.C. Sections 2101-2106, all historic shipwreck materials and such objects having intrinsic or historical and archaeological value which have been abandoned on lands beneath navigable waters shall belong to the state with jurisdiction thereto vested in the department for the purposes of administration and protection. The department shall have the authority to promulgate rules and regulations for the acceptable visitation, study, and salvage of such historic shipwreck materials.

3. Any plan of regulated activities submitted by an applicant under subsection 2 of section 253.420 shall include authorized written permission from any affected landowner allowing access both to and from sites on the property and permitting any ground-disturbing activities on such property.

578.520. PRIVATE LAND, PERMISSION OF OWNER NEEDED TO FISH, HUNT, OR TRAP, PENALTY FOR VIOLATION. — 1. No person shall fish, hunt, or trap upon or retrieve wildlife from any private land that is not owned or in the possession of such person without permission from the owner or lessee of such land.

2. Any person who violates the provisions of this section is guilty of a class B misdemeanor.

3. Any person who knowingly enters or remains on private property for the purpose of hunting, fishing, trapping, or retrieving wildlife in violation of subsection 1 of this section may, in addition to the penalty in subsection 2 of this section, be required by the court to surrender and deliver any license or permit issued by the department of conservation to hunt, fish, or trap. The court shall notify the conservation commission of any conviction under this section and request the commission take necessary action to revoke all privileges to hunt, fish, or trap for at least one year from the date of conviction.

578.525. PRIVATE LAND, RETRIEVAL OF WILDLIFE, PERMISSION OF OWNER REQUIRED — PENALTY FOR VIOLATION. — 1. No person shall, while engaged in the retrieval of wildlife from private land that is not owned or in the possession of such person with permission of the landowner or lessee of the land:

(1) Intentionally drive or flush any large or small game located on the land toward other hunters of the retriever's same hunting group located on other parcels of land or right-of-ways; or

(2) Intentionally discharge a firearm at large or small game, that originates from the private land during retrieval.

2. Unlawful retrieval of large or small game is a class B misdemeanor.

578.530. AFFIRMATIVE DEFENSE. — It shall be an affirmative defense to prosecution for a violation of sections 578.520 and 578.525 that the premises were at the time open to members of the public and the person complied with all lawful conditions imposed concerning access to or the privilege of remaining on the premises.

Approved July 13, 2007

SB 215 [SS SCS SB 215]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows for the formation of captive insurance companies within Missouri under certain conditions

AN ACT to amend chapter 379, RSMo, by adding thereto forty-nine new sections relating to the regulation of captive insurance companies.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 379, RSMo, is amended by adding thereto forty-nine new sections, to be known as sections 379.1300, 379.1302, 379.1304, 379.1306, 379.1308, 379.1310, 379.1312, 379.1314, 379.1316, 379.1318, 379.1320, 379.1322, 379.1324, 379.1326, 379.1328, 379.1330, 379.1332, 379.1336, 379.1338, 379.1340, 379.1342, 379.1344, 379.1346, 379.1348, 379.1350, 379.1353, 379.1356, 379.1359, 379.1361, 379.1364, 379.1367, 379.1370, 379.1373, 379.1376, 379.1379, 379.1382, 379.1385, 379.1388, 379.1391, 379.1394, 379.1397, 379.1400, 379.1403, 379.1406, 379.1409, 379.1412, 379.1415, 379.1418, and 379.1421, to read as follows:

379.1300. DEFINITIONS — As used in sections 379.1300 to 379.1350, the following terms shall mean:

(1) "Affiliated company", any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management;

(2) "Alien captive insurance company", any insurance company formed to write insurance business for its parents and affiliates and licensed under the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction;

(3) "Annuity", a contract issued for a valuable consideration under which the obligations are assumed with respect to periodic payments for a specified term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payments, is dependent upon the continuance of human life;

(4) "Association", any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that has been in continuous existence for at least one year, the member organizations of which or which does itself, whether or not in conjunction with some or all of the member organizations:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(5) "Association captive insurance company", any company that insures risks of the member organizations of the association and their affiliated companies;

(6) "Branch business", any insurance business transacted by a branch captive insurance company in this state;

(7) "Branch captive insurance company", any alien captive insurance company licensed by the director to transact the business of insurance in this state through a business unit with a principal place of business in this state;

(8) "Branch operations", any business operations of a branch captive insurance company in this state;

(9) "Captive insurance company", any pure captive insurance company, association captive insurance company, or industrial insured captive insurance company formed or

licensed under sections 379.1300 to 379.1350. For purposes of sections 379.1300 to 379.1350, a branch captive insurance company shall be a pure captive insurance company with respect to operations in this state, unless otherwise permitted by the director;

(10) "Controlled unaffiliated business", any company:

(a) That is not in the corporate system of a parent and affiliated companies;

(b) That has an existing contractual relationship with a parent or affiliated company; and

(c) Whose risks are managed by a pure captive insurance company in accordance with section 379.1338;

(11) "Director", the director of the department of insurance, financial and professional regulation;

(12) "Excess workers' compensation insurance", in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit established by the director;

(13) "Industrial insured", an insured:

(a) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) Who has at least twenty-five full-time employees;

(14) "Industrial insured captive insurance company", any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(15) "Industrial insured group", any group of industrial insureds that collectively:

(a) Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(b) Have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer;

(16) "Member organization", any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association;

(17) "Mutual corporation", a corporation organized without stockholders and includes a nonprofit corporation with members;

(18) "Parent", a corporation, limited liability company, partnership, other entity, or individual, that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting:

(a) Securities of a pure captive insurance company organized as a stock corporation; or

(b) Membership interests of a pure captive insurance company organized as a nonprofit corporation;

(19) "Pure captive insurance company", any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.

379.1302. LICENSURE — PROHIBITED ACTS — REQUIREMENTS FOR CONDUCTING BUSINESS — APPLICATION REQUIREMENTS. — 1. Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the director for a license to do any and all insurance and annuity contracts comprised in section 376.010, RSMo, and subsection 1 of section 379.010, other than workers' compensation and employers' liability; provided, however, that:

(1) No pure captive insurance company shall insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(2) No association captive insurance company shall insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) No industrial insured captive insurance company shall insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) No captive insurance company shall provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(5) No captive insurance company shall accept or cede reinsurance except as provided in section 379.1320;

(6) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of the state having jurisdiction over the transaction. Any captive insurance company, unless prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies, provided that sections 379.1300 to 379.1350 shall not divest the division of workers' compensation of any jurisdiction, as authorized by law, over workers' compensation self-insured plans;

(7) Any captive insurance company which insures life and accident and health risks described in section 376.010, RSMo, and subdivision (4) of subsection 1 of section 379.010, shall comply with all applicable state and federal laws; and

(8) No captive insurance company shall transact business as a risk retention group under sections 375.1080 to 375.1105, RSMo.

2. No captive insurance company shall do any insurance business in this state unless:

(1) It first obtains from the director a license authorizing it to do insurance business in this state;

(2) Its board of directors or committee of managers holds at least one meeting each year in this state;

(3) It maintains its principal place of business in this state;

(4) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this state; provided that, whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the secretary of state shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served; and

(5) It holds at least thirty-five percent of its assets either directly in this state or through a financial institution located in this state and approved by the director.

3. (1) Before receiving a license, a captive insurance company shall:

(a) File with the director a certified copy of its organizational documents, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the director; and

(b) Submit to the director for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the director may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the director for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the director. The captive insurance company shall inform the director of any material change in rates within thirty days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the director evidence of the following:

(a) The amount and liquidity of its assets relative to the risks to be assumed;

(b) The adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) The overall soundness of its plan of operation;

(d) The adequacy of the loss prevention programs of its insureds; and

(e) Such other factors deemed relevant by the director in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted under this subsection shall be and remain confidential, and shall not be made public by the director or an employee or agent of the director without the written consent of the company; except that:

(a) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

a. The information sought is relevant to and necessary for the furtherance of such action or case;

b. The information sought is unavailable from other nonconfidential sources; and

c. A subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the director; and

(b) The director may, in the director's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

a. Such public official shall agree in writing to maintain the confidentiality of such information;

b. The laws of the state in which such public official serves require such information to be and to remain confidential; and

(c) The director may disclose information to the director of the division of workers' compensation regarding any captive insurance company issuing excess workers' compensation insurance provided that the director for the division of workers' compensation agrees in writing to maintain the confidentiality of such information provided by the director.

(4) Each captive insurance company shall pay to the director a nonrefundable license fee of seven thousand five hundred dollars for examining, investigating, and processing its application for license, and the director is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged against the applicant. The provisions of sections 374.160 to 374.162 and sections 374.202 to 374.207, RSMo, shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a renewal fee for each year thereafter of seven thousand five hundred dollars. Each captive insurance company may deduct the license and renewal fee paid from the premium taxes payable under section 397.1326, RSMo.

(5) If the director is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of sections 379.1300 to 379.1350, the director may grant a license authorizing it to do insurance business in this state until April first, which license may be renewed.

379.1304. ADOPTION OF A NAME, DECEPTIVE PRACTICE. — No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the state of Missouri.

379.1306. CAPITAL AND SURPLUS REQUIREMENTS. — 1. No captive insurance company shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

(1) In the case of a pure captive insurance company, not less than two hundred fifty thousand dollars;

(2) In the case of an association captive insurance company, not less than seven hundred fifty thousand dollars; and

(3) In the case of an industrial insured captive insurance company, not less than five hundred thousand dollars.

2. The director may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

3. Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank chartered by the state of Missouri or a member bank of the Federal Reserve System, and approved by the director.

379.1308. APPROVAL FOR PAYMENT OF DIVIDENDS REQUIRED. — No captive insurance company shall pay a dividend out of, or other distribution with respect to, capital or surplus without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by or determined in accordance with formulas approved by the director. Notwithstanding the provisions of section 355.661, RSMo, a captive insurance company organized under chapter 355, RSMo, may make such distributions as are in conformity with its purposes and approved by the director.

379.1310. INCORPORATION AS A STOCK INSURER PERMITTED, WHEN. — 1. A pure captive insurance company may be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

2. An association captive insurance company or an industrial insured captive insurance company may be:

(1) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(2) Incorporated as a mutual insurer without capital stock, the governing body of which is elected by its insureds; or

(3) Organized as a manager-managed limited liability company.

3. A captive insurance company incorporated or organized in this state shall have not less than three incorporators or three organizers of whom not less than one shall be a resident of this state.

4. In the case of a captive insurance company:

(1) Formed as a corporation, before the articles of incorporation are transmitted to the secretary of state, the incorporators shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed corporation will promote the general good of the state. In arriving at such a finding the director shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators;

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and

(c) Such other aspects as the director shall deem advisable.

The articles of incorporation, such certificate, and the organization fee shall be transmitted to the secretary of state, who shall thereupon record both the articles of incorporation and the certificate;

(2) Formed as a limited liability company, before the articles of organization are transmitted to the secretary of state, the organizers shall petition the director to issue a certificate setting forth the director's finding that the establishment and maintenance of the proposed company will promote the general good of the state. In arriving at such a finding, the director shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection.

5. The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

6. In the case of a captive insurance company:

(1) Formed as a corporation, at least one of the members of the board of directors shall be a resident of this state;

(2) Formed as a limited liability company, at least one of the managers shall be a resident of this state.

7. Other than captive insurance companies formed as limited liability companies under chapter 347, RSMo, or as nonprofit corporations under chapter 355, RSMo, captive insurance companies formed as corporations under sections 379.1300 to 379.1350 shall have the privileges and be subject to chapter 351, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1308. In the event of conflict between the provisions of such general corporation law and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

8. Captive insurance companies formed under sections 379.1300 to 379.1350:

(1) As limited liability companies shall have the privileges and be subject to the provisions of chapter 347, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of a conflict between chapter 347, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control; or

(2) As nonprofit corporations shall have the privileges and be subject to the provisions of chapter 355, RSMo, as well as the applicable provisions contained in sections 379.1300 to 379.1350. In the event of conflict between chapter 355, RSMo, and sections 379.1300 to 379.1350, sections 379.1300 to 379.1350 shall control.

9. The provisions of section 375.355, RSMo, sections 379.980 to 379.988, and chapter 382, RSMo, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein; except that:

(1) The director may waive or modify the requirements for public notice and hearing in accordance with rules which the director may adopt addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, then the director may cancel the hearing;

(2) An alien insurer may be a party to a merger authorized under this subsection, if approved by the director.

10. The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of no fewer than one-third of the full board of directors determined, provided that a quorum shall not consist of fewer than two directors.

379.1312. REPORTS REQUIRED. — 1. Captive insurance companies shall not be required to make any annual report except as provided in sections 379.1300 to 379.1350.

2. Prior to March first of each year, each captive insurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, each association captive insurance company shall file its report in the form required by section 375.041, RSMo. The director shall by rule propose the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Subdivision (3) of subsection 2 of section 379.1302 shall apply to each report filed under this section.

3. Any pure captive insurance company or an industrial insured captive insurance company may make written application for filing the required report on a fiscal year end. If an alternative reporting date is granted:

(1) The annual report is due sixty days after the fiscal year end; and

(2) In order to provide sufficient detail to support the premium tax return, the pure captive insurance company or industrial insured captive insurance company shall file prior to March first of each year for each calendar year end, its balance sheet, income statement and statement of cash flows, verified by oath of two of its executive officers.

379.1314. INSPECTIONS, WHEN. — 1. At least once every three years and whenever the director determines it to be prudent, the director shall personally, or by some competent person appointed by the director, visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of sections 379.1300 to 379.1350. The director may enlarge such three-year period to five years, provided the captive insurance company is subject to a comprehensive annual audit during such period of a scope satisfactory to the director by independent auditors approved by the director. The expenses and charges of the examination shall be paid to the state by the company or companies examined and the director shall issue his or her warrants for the proper charges incurred in all examinations, as provided in sections 374.160 and 374.162, RSMo.

2. The provisions of sections 374.202 to 374.207, RSMo, shall apply to examinations conducted under this section.

3. All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the director or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and shall not be made public by the director or an employee or agent of the director without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the director from using such information in furtherance of the director's regulatory authority under this title. The director may, in the director's discretion, grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this state or any other state or agency of the federal government at any time, so long as such officers receiving the information agree in writing to hold it in a manner consistent with this section.

379.1316. SUSPENSION OR REVOCATION OF LICENSURE, WHEN. — 1. The license of a captive insurance company may be suspended or revoked by the director for any of the following reasons:

(1) Insolvency or impairment of capital or surplus;

(2) Failure to meet the requirements of section 379.1306;

(3) Refusal or failure to submit an annual report, as required by sections 379.1300 to 379.1350, or any other report or statement required by law or by lawful order of the director;

(4) Failure to comply with the provisions of its own charter, bylaws, or other organizational document;

(5) Failure to submit to or pay the cost of examination or any legal obligation relative thereto, as required by sections 379.1300 to 379.1350;

(6) Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or

(7) Failure otherwise to comply with the laws of this state.

2. Notwithstanding any other provision of sections 379.1300 to 379.1350, if the director finds upon examination, hearing, or other evidence that any captive insurance company has violated any provision of subsection 1 of this section, the director may

suspend or revoke such company's license if the director deems it in the best interest of the public and the policyholders of such captive insurance company.

379.1318. INVESTMENT REQUIREMENTS, COMPLIANCE WITH. — 1. Association captive insurance companies shall comply with the investment requirements contained in chapter 375, RSMo, and sections 379.080 and 379.082, as applicable. Investments of association captive insurance companies shall be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners for insurance companies, except to the extent it is inconsistent with accounting standards in use by the company and approved by the director. Notwithstanding any other provision of sections 379.1300 to 379.1350, the director may approve the use of alternative reliable methods of valuation and rating.

2. No pure captive insurance company or industrial insured captive insurance company shall be subject to any restrictions on allowable investments whatever, including those limitations contained in sections 379.080 and 379.082; provided, however, that the director may prohibit or limit any investment that threatens the solvency or liquidity of any such company.

3. No pure captive insurance company shall make a loan to or an investment in its parent company or affiliates without prior written approval of the director, and any such loan or investment shall be evidenced by documentation approved by the director.

379.1320. REINSURANCE MAY BE PROVIDED, WHEN. — 1. Any captive insurance company may provide reinsurance, comprised in section 376.010, RSMo, and subsection 1 of section 379.010, on risks ceded by any other insurer.

2. Any captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with the provisions of section 375.246, RSMo. Prior approval of the director shall be required for ceding or taking credit for the reinsurance of risks or portions of risks ceded to reinsurers or under reinsurance agreements not complying with section 375.246, RSMo, except for business written by an alien captive insurance company outside the United States.

3. For all purposes of sections 379.1300 to 379.1350, insurance by a captive insurance company of any workers' compensation qualified self-insured plan of its parent and affiliates shall be deemed to be reinsurance.

4. In addition to reinsurers authorized under the provisions of section 375.246, RSMo, a captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to a pool, exchange, or association acting as a reinsurer which has been authorized by the director. The director may require any other documents, financial information, or other evidence that such a pool, exchange, or association will be able to provide adequate security for its financial obligations. The director may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange, or association that, in the director's judgment, are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and consequent benefit of the public at large.

379.1322. RATING ORGANIZATIONS, COMPANY NOT REQUIRED TO JOIN. — No captive insurance company shall be required to join a rating organization.

379.1324. PROHIBITIONS ON JOINING OR CONTRIBUTING TO CERTAIN ENTITIES AND FUNDS. — No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty, or insolvency fund in this state, nor shall any such captive insurance company or any insured or affiliate thereof receive any benefit from any such plan, pool, association, or guaranty, or insolvency fund for claims arising out of the operations of such captive insurance company.

379.1326. PREMIUM TAX IMPOSED, AMOUNT, PROCEDURE. — 1. Each captive insurance company shall pay to the director of revenue, on or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one percent on the first twenty million dollars and two hundred eighty-five-thousandths of one percent on the next twenty million dollars and nineteen-hundredths of one percent on the next twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December thirty-first next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders; provided, however, that no tax shall be due or payable as to considerations received for annuity contracts.

2. Each captive insurance company shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen-thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three-thousandths of one percent on the next twenty million dollars and forty-eight-thousandths of one percent on the next twenty million dollars and twenty-four-thousandths of one percent of each dollar thereafter. However, no reinsurance premium tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis under subsection 1 of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

3. The annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections 1 and 2 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. Every captive insurance company shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in subsections 1 to 3 of this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

5. A captive insurance company failing to make returns as required by subsection 4 of this section or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

6. Two or more captive insurance companies under common ownership and control shall be taxed, as though they were a single captive insurance company.

7. For the purposes of this section, "common ownership and control" shall mean:

(1) In the case of stock corporations, the direct or indirect ownership of eighty percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(2) In the case of mutual or nonprofit corporations, the direct or indirect ownership of eighty percent or more of the surplus and the voting power of two or more corporations by the same member or members.

8. The tax provided for in this section shall constitute all taxes collectible under the laws of this state from any captive insurance company, and no other occupation tax or

other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

9. The state treasurer shall annually transfer the premium tax revenues collected under this section to the general revenue fund, except as provided in section 379.1332.

10. The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multi-year basis. In the case of multi-year policies or contracts, the premium shall be prorated for purposes of determining the tax under this section.

11. A captive insurance company may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, license fees and renewal fees payable under section 379.1302. A deduction for fees which exceeds a captive insurance company's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

379.1328. RULEMAKING AUTHORITY. — The director may promulgate rules under section 374.045, RSMo, and from time to time amend such rules relating to captive insurance companies as are necessary to enable the director to carry out the provisions of sections 379.1300 to 379.1350.

379.1330. INAPPLICABILITY OF INSURANCE LAWS TO CAPTIVE INSURANCE COMPANIES. — No provisions of the insurance laws of this state, other than those contained in sections 379.1300 to 379.1350 or contained in specific references contained therein, shall apply to captive insurance companies.

379.1332. PROMOTION OF CAPTIVE INSURANCE, MONEYS FROM DEDICATED INSURANCE FUND TO BE USED. — 1. (1) The insurance dedicated fund under section 374.150, RSMo, shall be adequately funded through the collection of fees and taxes for the purpose of providing the financial means for the director of insurance to administer sections 379.1300 to 379.1350 and for reasonable expenses incurred in promoting the captive insurance industry in Missouri. All fees and assessments received by the department for the administration of sections 379.1300 to 379.1350 shall be paid into the fund. In addition, the transfer of twenty percent of the premium tax under section 375.1014, RSMo, shall be made to the insurance dedicated fund until two hundred thousand dollars has been transferred. Thereafter, up to ten percent of the premium tax under section 379.1326 may be transferred to the insurance dedicated fund for the administration of sections 379.1300 to 379.1350, and up to two percent of the premium tax under section 379.1326 may be transferred to the department of economic development, with approval of the commissioner of administration, for promotional expenses. All fees received by the department from reinsurers who assume risk solely from captive insurance companies and are subject to the provisions of section 375.246, RSMo, shall be deposited into the insurance dedicated fund.

(2) All payments from the insurance dedicated fund for the maintenance of staff and expenses associated with the administration of sections 379.1300 to 379.1350, including contractual services as necessary, shall be disbursed from the state treasury only upon warrants issued by the director, after receipt of proper documentation regarding services rendered and expenses incurred.

2. The director may anticipate receipts to the insurance dedicated fund through the administration of sections 379.1300 to 379.1350 and issue warrants based thereon.

379.1336. INSURANCE REORGANIZATION, RECEIVERSHIP AND INJUNCTIONS PROVISIONS — APPLICABILITY TO CAPTIVE INSURANCE COMPANIES. — Except as otherwise provided

in sections 379.1300 to 379.1350, the terms and conditions set forth in sections 375.1150 to 375.1246, RSMo, pertaining to insurance reorganizations, receiverships and injunctions shall apply in full to captive insurance companies formed or licensed under sections 379.1300 to 379.1350.

379.1338. STANDARDS FOR RISK MANAGEMENT OF CONTROLLED UNAFFILIATED BUSINESS. — The director may promulgate rules under section 374.045, RSMo, establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the pure captive insurance company; provided, however, that, until such time as rules under this section are adopted, the director may approve the coverage of such risks by a pure captive insurance company.

379.1340. BRANCH CAPTIVE MAY BE ESTABLISHED, WHEN. — 1. A branch captive may be established in this state in accordance with the provisions of sections 379.1300 to 379.1350 to write insurance, including insurance or reinsurance of the employee benefit business of its parent and affiliated companies which is subject to the provisions of the federal Employee Retirement Income Security Act of 1974, as amended. In addition to the general provisions of sections 379.1300 to 379.1350, the provisions of sections 379.1340 to 379.1350 shall apply to branch captive insurance companies.

2. No branch captive insurance company shall do any insurance business in this state unless it maintains the principal place of business for its branch operations in this state.

379.1342. TRUST FUND REQUIRED FOR BRANCH CAPTIVE INSURANCE COMPANY. — In the case of a branch captive insurance company, as security for the payment of liabilities attributable to the branch operations, the director shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed by the branch captive insurance company through its branch operations. The amount of such security shall be no less than the amount set forth in subdivision (1) of subsection 1 of section 379.1306 and the reserves on such insurance policies or such reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses, and unearned premiums with regard to business written through the branch operations; provided, however, the director may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit shall be established by or issued or confirmed by a bank chartered in this state or a member bank of the Federal Reserve System.

379.1344. CERTIFICATE FOR BRANCH CAPTIVE INSURANCE COMPANIES. — In the case of a captive insurance company licensed as a branch captive, the alien captive insurance company shall petition the director to issue a certificate setting forth the director's finding that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the state. The alien captive insurance company may register to do business in this state after the director's certificate is issued.

379.1346. REPORTS AND STATEMENTS OF BRANCH CAPTIVE INSURANCE COMPANIES TO BE FILED WITH DIRECTOR. — Prior to March first of each year, or with the approval

of the director within sixty days after its fiscal year end, a branch captive insurance company shall file with the director a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. If the director is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the director may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

379.1348. EXAMINATION OF BRANCH CAPTIVE INSURANCE COMPANIES, LIMITATIONS. — 1. The examination of a branch captive insurance company under section 379.1314 shall be of branch business and branch operations only, so long as the branch captive insurance company provides annually to the director a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed, and demonstrates to the director's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of such jurisdiction.

2. As a condition of licensure, the alien captive insurance company shall grant authority to the director for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

379.1350. APPLICABILITY OF TAX TO BRANCH COMPANIES. — In the case of a branch captive insurance company, the tax provided for in section 379.1326 shall apply only to the branch business of such company.

379.1353. DEFINITIONS. — As used in sections 379.1353 to 379.1421, the following terms shall mean:

(1) "Affiliate", a company that controls, is controlled by or under common control with the special purpose life reinsurance captive "SPLRC" as defined in this section;

(2) "Affiliated agreements", written agreements, including an SPLRC contract, between an SPLRC and its affiliate;

(3) "Ceded reinsurance agreements", reinsurance agreements entered into by the SPLRC with affiliates or unaffiliated parties for the purpose of obtaining reinsurance for all or some portion of the risks assumed by the SPLRC under SPLRC contracts;

(4) "Ceding company", the insurer ceding business to the SPLRC under the SPLRC contract;

(5) "Department", the Missouri department of insurance, financial and professional regulation;

(6) "Director", the director of the Missouri department of insurance, financial and professional regulation or its successor agency or his or her designee;

(7) "Financial guarantee policy", a financial guarantee policy issued by an insurer licensed to issue financial guarantee insurance policies by the director;

(8) "Letters of credit", clean, irrevocable, evergreen letters of credit issued meeting the requirements of subdivision (2) of section 375.246, RSMo, and regulations issued thereunder that are issued or confirmed by a qualified United States financial institution or guaranteed by a financial guarantee insurance company authorized to issue financial guarantee insurance policies in the state of Missouri;

(9) "Organizational documents", means the SPLRC's articles of organization, bylaws, operating agreement or other foundational document that establishes the SPLRC as a legal entity or prescribes its existence;

(10) "Permitted investments", investments as authorized by sections 376.291 to 376.307, RSMo, or as specifically authorized by the director by order;

(11) "Rule", a rule promulgated by the director in accordance with the authority granted by section 379.1421;

(12) "SPLRC" or "special purpose life insurance captive", a captive insurance company that has received a license from the director for the limited purposes provided for in sections 379.1353 to 379.1421;

(13) "SPLRC contract", a written contract between the SPLRC and the ceding company under which the SPLRC agrees to provide reinsurance protection to the ceding company for risks associated with the ceding company's written or assumed annuity, life insurance or accident and health insurance business;

(14) "State", the state of Missouri;

(15) "Surety bond", a surety bond issued by an insurer licensed to issue surety bonds by the director;

(16) "Surplus note", an unsecured subordinated debt obligation, including any contingent obligation for the repayment of a sum of money upon a written agreement that the loan or advance with interest shall be repaid only out of funds as specified in the approved plan of operation, or any approved amendment thereto;

(17) "Swap agreements", an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests.

379.1356. INAPPLICABILITY OF INSURANCE LAWS. — No provision of the Missouri insurance laws, other than those specifically referenced in sections 379.1353 to 379.1421 apply to a SPLRC, its operations, assets, investments and SPLRC contracts. In the event of a conflict between a provision of the Missouri insurance laws and sections 379.1353 to 379.1421, the provisions of sections 379.1353 to 379.1421 shall control as to the SPLRC and its operations, assets, dividends, SPLRC contracts, and surplus notes and investments. The director may exempt all, or any one, SPLRC by rule or order from the provisions of sections 379.1353 to 379.1421 that he or she determines to be inappropriate, but may not expand the application of the Missouri insurance laws, except as specifically provided for in sections 379.1353 to 379.1421.

379.1359. LICENSE APPLICATION — REQUIREMENTS FOR TRANSACTION OF BUSINESS — LICENSURE REQUIREMENTS — ISSUANCE OF LICENSE, FEE. — 1. A SPLRC, when permitted by its organizational documents, may apply to the director for a license to conduct reinsurance in this state as authorized by sections 379.1353 to 379.1421.

2. A SPLRC may only reinsure the risks of its ceding company. A SPLRC may reinsure risks of more than one ceding company, provided all ceding companies from which a SPLRC assumes risks shall be affiliated with one another.

3. A SPLRC may cede all or a portion of its assumed risks under ceded reinsurance agreements.

4. A SPLRC may mitigate its risks by purchasing or participating in hedges such as credit default swaps and total return swaps.

5. To transact business in this state, a SPLRC shall:

(1) Obtain from the director a license authorizing it to conduct reinsurance business in this state;

(2) Hold at least one meeting of its board of directors each year within the state of Missouri;

(3) Maintain its principal place of business in Missouri;

(4) Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this state;

(5) Maintain a minimum surplus in this state, in cash, in the amount of two-hundred and fifty-thousand dollars;

(6) Pay all applicable fees as required by sections 379.1353 to 379.1421.

6. To obtain a license to transact business as a SPLRC in this state, the SPLRC shall:

(1) File an application which must include the following:

(a) Certified copies of its organizational documents;

(b) A statement under oath from any of the applicant's officers as to the financial condition of the applicant as of the time the application is filed;

(c) Evidence of the applicant's assets as of the time of the application;

(d) Complete biographical sketches for each officer and director on forms created by the National Association of Insurance Commissioners;

(e) A plan of operation as described in section 379.1361;

(f) An affidavit signed by the applicant that the SPLRC will operate only in accordance with the provisions of sections 379.1353 to 379.1421 and its plan of operation;

(g) A description of the investment strategy the SPLRC will follow;

(h) A description of the source and form of the initial minimum capital proposed in the plan of operation;

(2) Demonstrate that the minimum surplus described in subdivision (5) of subsection 5 of this section is established and held in this state;

(3) Provide copies of any filings made by the ceding company with the ceding company's domiciliary insurance regulator to obtain approval for the ceding company to enter into the SPLRC contract and copies of any filings made by any affiliate of the SPLRC to obtain regulatory approval to contribute capital to the SPLRC or to acquire direct or indirect ownership of the SPLRC;

(4) Provide copies of any letters of approval or non-disapproval received from the insurance regulator responding to any filings for which copies were provided as described in subdivision (3) of this subsection.

7. No other requirements shall be imposed upon the SPLRC to transact business, except the director may require the SPLRC to revise its plan of operation under section 379.1361 and meet all requirements imposed by a revised plan of operation as approved by the director thereunder.

8. The department shall act upon a complete application within sixty days of its filing, provided the requirements identified in subdivisions (2), (3) and (4) of subsection 6 of this section are met five days prior to the end of the sixty day period. For purposes of this subsection, an application shall be considered complete when the items listed in subdivision (1) of subsection 6 of this section are filed with the department. In the event the ceding company is not required to make filings with its domiciliary insurance regulator as described in subdivision (3) of subsection 6 of this section, no such filing shall be required under subdivision (3) of subsection 6 of this section in this state, provided the applicant provides the director with a certification signed by one of its officers attesting that no such filing is required with the ceding company's domiciliary regulator.

9. Once granted, a license under sections 379.1353 to 379.1421 shall continue until March first of each year, at this time it may be renewed at the discretion of the director.

10. A SPLRC shall pay to the director a non-refundable application fee of ten thousand dollars for processing its application for a license under sections 379.1353 to 379.1421. Such fee shall be paid at the time the application is filed with the director. Each SPLRC may take a credit for the application fee against the taxes payable under section 379.1412, notwithstanding the imposition of an annual aggregate minimum tax by section 379.1412.

11. The director may retain legal, financial, actuarial, and examination services from outside the department to review the application. The reasonable cost of such services shall be billed to and paid by the applicant.

379.1361. PLAN OF OPERATION TO BE FILED, CONTENTS. — A SPLRC must file, as part of its application, a plan of operation to consist of a description of the contemplated

financing transaction or transactions and a detailed description of transaction documents to which the SPLRC will be a party, including, but not limited to, the SPLRC contract and related transactions to which the SPLRC will be a party which must include:

(1) Draft documentation or, at the director's discretion, a written summary of all material agreements to which the SPLRC is to be a party that are to be entered into to effectuate the SPLRC contract and the financing transaction;

(2) The purpose of the transaction;

(3) Maximum amounts;

(4) Interrelationships of the various transactions, to which the SPLRC will be a party, required to effectuate the financing;

(5) Investment strategy for the SPLRC;

(6) Description of the underwriting, reporting and claims payment methods by which losses covered by the SPLRC contract will be reported, accounted for and settled;

(7) Initial minimum capital to be held by the SPLRC;

(8) Pro-forma balance sheet and income statements illustrating the performance of the SPLRC, the SPLRC contract, and any ceded reinsurance agreements under scenarios reasonably requested by the director or specified by rule; and

(9) The pro-forma balance sheets and income statements filed under this section must be updated by the SPLRC and filed with the director in the event of a material deviation from the original or most recently filed plan of operation. The plan of operation must specify which deviations are to be considered material.

379.1364. LICENSE FEE, AMOUNT. — Each SPLRC shall pay to the director a license fee for the year of registration of seven thousand five hundred dollars for processing its license. The provisions of sections 374.160 to 374.162, RSMo, and sections 374.202 to 374.207, RSMo, shall apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each SPLRC shall pay a renewal fee for each year thereafter of seven thousand five hundred dollars. Each SPLRC may take a credit for the license and renewal fees paid against the taxes payable under section 379.1412, notwithstanding the imposition of an annual aggregate minimum tax by section 379.1412.

379.1367. APPROVAL OF APPLICATION, FINDINGS BY DIRECTOR. — 1. In order to approve an application and issue a license to a SPLRC under sections 379.1353 to 379.1421, the director must find that:

(1) The proposed plan of operation provides a reasonable and expected successful operation;

(2) The terms of the transactions proposed in the plan of operation to which the SPLRC is a party comply with sections 379.1353 to 379.1421; and

(3) The commissioner of the state of domicile of each ceding company has notified the director in writing or the applicant has otherwise provided assurance satisfactory to the director that such regulator has either approved or granted a nondisapproval of the SPLRC contract.

2. In evaluating the expectation of a successful operation, the director shall consider whether the proposed SPLRC and its management are of known good character and reasonably believed not to be affiliated, directly or indirectly, with a person known to have been involved with the improper manipulation of assets, accounts or reinsurance. In the event the commissioner of the state of domicile of any ceding company is not required to review the SPLRC contract, then the approval described in subdivision (3) of subsection 1 of this section shall not be required for licensing of the SPLRC hereunder.

379.1370. CORPORATE STATUS OF COMPANY. — A SPLRC may be established as either a stock corporation, a Missouri statutory close corporation, a limited liability company or other form of organization approved by the director.

379.1373. LIMITATION ON ACTIVITIES AND NAME — NUMBER OF INCORPORATORS REQUIRED. — 1. Activities of a SPLRC must be limited to those necessary to accomplish its purpose as outlined in its plan of operation.

2. The name must not be deceptively similar to or likely to be confused with another existing business name registered in the state.

3. The SPLRC must have at least three incorporators or organizers of whom not fewer than two must be residents of the state.

4. The capital stock of a SPLRC incorporated as a stock company must be issued at not less than par value.

379.1376. CONTRACT REQUIREMENTS. — A SPLRC may enter into a SPLRC contract with a ceding company, provided:

(1) The SPLRC has been granted a license to transact business as an SPLRC under sections 379.1353 to 379.1421; and

(2) The SPLRC provides the director with evidence of an approval or non-disapproval from the insurance regulatory official of the ceding company's state or country of domicile to enter into the SPLRC contract. If the ceding company's domiciliary insurance regulatory official does not customarily provide evidence of such approval or non-disapproval, the director shall approve the SPLRC's execution of such SPLRC contract if such SPLRC contract would be acceptable if an assuming insurer domiciled in this state were to propose execution of the same with its ceding company for the purpose of assuming such reinsurance and an officer of the SPLRC provides the director with a certification that terms of the SPLRC contract meet the requirements for the ceding company to obtain credit in its state of domicile for reinsurance ceded under the SPLRC contract.

379.1379. SWAP AGREEMENTS PERMITTED. — The SPLRC may enter into swap agreements for any purpose for which a Missouri domestic life insurer could enter into such a transaction under section 375.345, RSMo, or when the underlying interests are permitted investments if held directly by the SPLRC.

379.1382. ISSUANCE OF SECURITIES — APPROVED ACTIVITIES BY DIRECTOR. — 1. A SPLRC may issue securities, subject to and in accordance with applicable law, its approved plan of operation and its organizational documents. A SPLRC may enter into and perform all its obligations under any required contract to facilitate the issuance of these securities.

2. Subject to the approval of the director, a SPLRC may:

(1) Account for the proceeds of surplus notes as surplus and not debt for purposes of statutory accounting; and

(2) Submit for prior approval of the director periodic written requests for payments of interest on and repayments of principal of surplus notes.

3. The director may approve formulas for the ongoing payment of interest payments or principal repayments, or both.

4. The obligation to repay principal or interest, or both, on the securities issued by the SPLRC must reflect the risk associated with the reinsurance obligations assumed by the SPLRC.

5. The approval given for the ongoing payment of interest or the repayment of principal related to any securities or surplus notes, as outlined in the plan of operations, may only be revoked or otherwise modified by the director in the event the performance of the insurance business assumed by the SPLRC under the SPLRC contract is demonstrated by the director to be following a scenario as to mortality, morbidity, investment, or lapse experience that will cause the SPLRC to fail to meet its obligations under the SPLRC contract.

379.1385. MANAGEMENT OF ASSETS. — A SPLRC's assets must be managed in accordance with an investment management agreement filed with and approved by order of the director.

379.1388. RECOGNITION OF ADMITTED ASSETS — VALUE OF ASSETS. — 1. A SPLRC may recognize as an admitted asset on its financial statements filed with the director:

(1) Permitted investments;

(2) Letters of credit issued without recourse to the SPLRC;

(3) Financial guarantee policies issued for the sole benefit of the ceding company without recourse to the SPLRC by an insurer having a rating of no less than AAA by Standard and Poor's or less than AAA by Moody's Investor Service; and

(4) Surety bonds issued for the sole benefit of the ceding company without recourse to the SPLRC by an insurer having a rating of no less than AAA by Standard and Poor's or no less than AAA by Moody's Investors Service.

2. The assets of a SPLRC shall be valued in the same manner as the assets of a Missouri domestic life insurer. Notwithstanding the preceding, the director may by order authorize a SPLRC to value one or more of its assets through an alternative method. Letters of credit shall be valued at the amount available for drawings by the SPLRC or its ceding company as of the time of valuation. A financial guarantee policy shall be valued at the amount available to pay aggregate claims as of the time of valuation. A surety bond shall be valued at the amount available to pay aggregate claims as of the time of valuation.

379.1391. PROHIBITED ACTS. — A SPLRC shall not:

(1) Enter into a SPLRC contract with a person that is not licensed or otherwise authorized to transact the business of insurance or reinsurance in at least its state or country of domicile;

(2) Lend or otherwise invest or place in custody, trust or under management any of its assets with, or to borrow money or receive a loan from, other than according to the plan of operation filed with and approved by the director.

379.1394. DIVIDEND-PAYMENTS, LIMITATIONS. — 1. A SPLRC may not declare or pay dividends in any form to its owners other than in accordance with the transaction agreements.

2. Dividends may not decrease the capital of the SPLRC below the minimum initial capital requirement.

3. After giving effect to the dividends the assets of the SPLRC, including assets held in trust and letters of credit issued for the exclusive benefit of the SPLRC, must be sufficient to satisfy the director that it can meet its obligations.

4. Approval of the director for ongoing dividends of other distributions must be conditioned upon the retention at the time of each payment, of capital or surplus equal to or in excess of amounts specified by, or determined in accordance with formulas approved for the SPLRC by the director.

5. Dividends may be declared by the management of the SPLRC provided that the dividend amount or form does not violate the provisions of sections 379.1353 to 379.1421 or jeopardize the fulfillment of the obligations of the SPLRC.

379.1397. CHANGES IN PLAN OF OPERATION, DIRECTORS APPROVAL REQUIRED. — Any material changes to a SPLRC's plan of operation shall require the prior written approval of the director. However, if initially approved in the plan of operation, the subsequent issuance of securities, additional financing, substitution of a party to a swap transaction with a party of similar rating or the inclusion of additional business under a SPLRC contract, shall not be considered a material change.

379.1400. AFFILIATED AGREEMENTS TO BE FILED WITH DIRECTOR. — Copies of all completed affiliated agreements to which the SPLRC is a party, including but not limited to the SPLRC contract or contracts and any ceded reinsurance agreements to which the SPLRC is a party must be filed with the director within thirty days of their execution.

379.1403. AUDITED FINANCIAL REPORT REQUIRED, REQUIREMENTS. — 1. No later than five months after the fiscal year end of the SPLRC, the SPLRC shall file with the director an audited financial report by an independent certified public accountant of the financial statements of the SPLRC and any trust accounts established for the benefit of the ceding company to secure reserve credits for the ceding company.

2. The SPLRC shall file by March first of each year financial information using statutory accounting principles with useful or necessary modifications or adaptations required or approved by the director, as supplemented by additional information as required by the director. Financial information must include:

(1) Income statement;

(2) Balance sheet, and if required;

(3) A detailed listing of invested assets.

The filing may also include RBC calculations and other adjusted capital calculations to assist the director. The statements must be prepared on forms required by the director. In addition, the director may require the filing of performance assessments of the SPLRC contract.

379.1406. EXAMINATION REQUIRED, WHEN, PROCEDURE. — An SPLRC must be examined by the director at least once every five years and no more frequently than once every three years. In addition, the director may also examine an SPLRC in the event of an event of insolvency. The SPLRC shall pay to the director the expenses and costs of the examination as outlined in section 374.160, RSMo. Neither reports, copies of documents obtained nor preliminary work and working papers may be disclosed without the prior written consent of the SPLRC. Such materials shall remain confidential and are not subject to subpoena. Nothing in this section shall prevent the director from using materials created during the examination or obtained during the examination in furtherance of the director's regulatory authority granted under sections 379.1353 to 379.1421. The director may grant access to materials obtained or created during examinations conducted under this section to public officers having jurisdiction over the regulation of insurance in another state, the federal government or another country, including a securities regulatory authority, if the officers receiving the information agree in writing to hold such information in confidence and in a manner consistent with this section.

379.1409. RECORDKEEPING REQUIREMENTS. — The SPLRC shall maintain its books and records in the state and make the same available at any time for examination by the director. Notwithstanding the preceding, original books and records may be kept outside of the state, if a plan is adopted by the SPLRC and approved by the director whereby copies are maintained in the state with originals kept at another specified location. Records must be maintained for examination purposes until authorization to destroy is received from the director.

379.1412. PREMIUM TAX REQUIRED, AMOUNT, PROCEDURE. — 1. Each SPLRC shall pay to the director of revenue on or before May first of each year a premium tax at the rate of two hundred fourteen thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred forty-three thousandths of one percent on the next twenty million dollars and forty-eight thousandths of one percent on the next twenty million dollars and twenty-four thousandths of one percent of each dollar

thereafter. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

2. The premium tax imposed by subsection 1 of this section shall constitute all taxes collectible under the laws of this state from any SPLRC, and no other occupation tax or other taxes shall be levied or collected from any captive insurance company by the state or any county, city, or municipality within this state, except ad valorem taxes on real and personal property used in the production of income.

3. The annual minimum aggregate tax to be paid by a SPLRC calculated under subsection 1 of this section shall be seven thousand five hundred dollars, and the annual maximum aggregate tax shall be two hundred thousand dollars.

4. A SPLRC may deduct from premium taxes payable to this state, in addition to all other credits allowed by law, application fees payable under section 379.1359 and license fees and renewal fees payable under section 379.1364. A deduction for fees which exceeds a SPLRC's premium tax liability for the same tax year shall not be refundable, but may be carried forward to any subsequent tax year, not to exceed five years, until the full deduction is claimed.

5. Every SPLRC shall, on or before February first each year, make a return on a form provided by the director, verified by the affidavit of the company's president and secretary or other authorized officers, to the director stating the amount of all direct premiums received and assumed reinsurance premiums received, whether in cash or in notes, during the year ending on December thirty-first next preceding. Upon receipt of such returns, the director shall verify the same and certify the amount of tax due from the various companies on the basis and at the rate provided in this section, and shall certify the same to the director of revenue, on or before March thirty-first of each year. The director of revenue shall immediately thereafter notify and assess each company the amount of tax due.

6. A SPLRC failing to make returns as required by subsection 5 of this section, or failing to pay within the time required all taxes assessed by this section, shall be subject to the provisions of sections 148.375 and 148.410, RSMo.

379.1415. CONFIDENTIALITY OF RECORDS, EXCEPTIONS. — Information filed with the director is confidential and may not be disclosed without the prior written consent of the SPLRC, except:

(1) Information is discoverable in civil litigation provided:

(a) The SPLRC is found by the court to be a necessary party;

(b) The party seeking the information demonstrates by a clear and convincing standard that the information sought is relevant and necessary; and

(c) Where it is unavailable from other nonconfidential sources.

(2) The director may disclose the information to insurance regulators if:

(a) The regulator agrees in writing to maintain the confidentiality of the information; and

(b) The laws of the state in which the regulator serves preserve confidentiality of the information.

(3) In addition, the director may also disclose information to the Securities Exchange Commission if:

(a) The SEC agrees in writing to maintain the confidentiality of the information; and

(b) The SEC is authorized under securities law to request the information or the director is obligated to disclose the information.

379.1418. GROUNDS FOR LIQUIDATION — GRANTING OF RELIEF, MANAGEMENT OF ASSETS. — 1. The director may apply by petition to the circuit court for an order authorizing the director to conserve, rehabilitate or liquidate a SPLRC domiciled in this state on one or more of the following grounds:

(1) There has been embezzlement, wrongful sequestration, dissipation, or diversion of the assets of the SPLRC;

(2) The SPLRC is insolvent and the holders of a majority in outstanding principal amount of each class of SPLRC securities or surplus notes request or consent to conservation, rehabilitation or liquidation under the provisions of this section.

2. The court may not grant relief provided by subdivision (1) of subsection 1 of this section unless, after notice and a hearing, the director, who must have the burden of proof, establishes by clear and convincing evidence that relief must be granted.

3. Notwithstanding another provision in sections 379.1353 to 379.1421, rules promulgated under sections 379.1353 to 379.1421, or another applicable provision of law or rule, upon any order of conservation, rehabilitation, or liquidation of a SPLRC, the receiver shall manage the assets and liabilities of the SPLRC under the provisions of sections 379.1353 to 379.1421.

4. With respect to amounts recoverable under a SPLRC contract, the amount recoverable by the receiver must not be reduced or diminished as a result of the entry of an order of conservation, rehabilitation, or liquidation with respect to the ceding company, notwithstanding another provision in the SPLRC contract or other documentation governing the SPLRC's transactions.

5. Notwithstanding the provisions of sections 379.1353 to 379.1421, an application or petition, or a temporary restraining order or injunction issued under the provisions of the insurance laws of a state, with respect to a ceding company, does not prohibit the transaction of a business by a SPLRC, including any payment by a SPLRC made under the SPLRC contract, the SPLRC's securities or surplus notes, or any action or proceeding against a SPLRC or its assets.

6. Notwithstanding the provisions of any Missouri insurance law to the contrary, the commencement of a summary proceeding or other interim proceeding commenced before a formal delinquency proceeding with respect to a SPLRC, and any order issued by the court does not prohibit the payment by a SPLRC made under securities issued by an SPLRC or an SPLRC contract or the SPLRC from taking any action required to make the payment.

7. Notwithstanding the provisions of the Missouri insurance laws:

(1) A receiver of a ceding company shall not void a nonfraudulent transfer by a ceding company of money or other property paid or paid pursuant to a SPLRC contract; and

(2) A receiver of a SPLRC shall not void a nonfraudulent transfer by the SPLRC of money or other property made to a ceding company pursuant to a SPLRC contract or made to or for the benefit of any holder of a SPLRC security on account of the SPLRC security.

8. With the exception of the fulfillment of the obligations under a SPLRC contract, and notwithstanding another provision of sections 379.1353 to 379.1421 or other laws of this state, the assets of a SPLRC, including assets held in trust, letters of credit, financial guarantee policies or surety bonds, shall not be consolidated with or included in the estate of a ceding company in any delinquency proceeding against the ceding company under the provisions of sections 379.1353 to 379.1421 for any purpose including, without limitation, distribution to creditors of the ceding company.

9. Other than as set forth in this section, delinquency proceedings of a SPLRC shall be conducted under sections 375.1150 to 375.1246, RSMo.

379.1421. RULEMAKING AUTHORITY. — The director may promulgate all rules and regulations necessary to effectuate the purposes of sections 379.1353 to 379.1421. No regulations promulgated under this authority shall affect SPLRC Contracts or other transactions approved prior to the effective date of such rules. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

Approved July 13, 2007

SB 225 [SS SCS SB 225]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates 100-year flood plains as "Hunting Heritage Protection Areas" where hunting shall not be prohibited

AN ACT to repeal section 21.750, RSMo, and to enact in lieu thereof two new sections relating to hunting heritage protection.

SECTION

A. Enacting clause.
21.750. Firearms legislation preemption by general assembly, exceptions — limitation on civil recovery against firearms or ammunitions manufacturers, when, exception.
252.243. Hunting heritage protection areas designated, where — no TIF projects permitted, exceptions-discharge of firearms prohibited — areas not included.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 21.750, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 21.750 and 252.243, to read as follows:

21.750. FIREARMS LEGISLATION PREEMPTION BY GENERAL ASSEMBLY, EXCEPTIONS — LIMITATION ON CIVIL RECOVERY AGAINST FIREARMS OR AMMUNITIONS MANUFACTURERS, WHEN, EXCEPTION. — 1. The general assembly hereby occupies and preempts the entire field of legislation touching in any way firearms, components, ammunition and supplies to the complete exclusion of any order, ordinance or regulation by any political subdivision of this state. Any existing or future orders, ordinances or regulations in this field are hereby and shall be null and void except as provided in subsection 3 of this section.

2. No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance or regulation concerning in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes or other controls on firearms, components, ammunition, and supplies except as provided in subsection 3 of this section.

3. Nothing contained in this section shall prohibit any ordinance of any political subdivision which conforms exactly with any of the provisions of sections 571.010 to 571.070, RSMo, with appropriate penalty provisions, or which regulates the open carrying of firearms readily capable

of lethal use or the discharge of firearms within a jurisdiction**, provided such ordinance complies with the provisions of section 252.243, RSMo**.

4. The lawful design, marketing, manufacture, distribution, or sale of firearms or ammunition to the public is not an abnormally dangerous activity and does not constitute a public or private nuisance.

5. No county, city, town, village or any other political subdivision nor the state shall bring suit or have any right to recover against any firearms or ammunition manufacturer, trade association or dealer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, distribution, or sale of firearms or ammunition to the public. This subsection shall apply to any suit pending as of October 12, 2003, as well as any suit which may be brought in the future. Provided, however, that nothing in this section shall restrict the rights of individual citizens to recover for injury or death caused by the negligent or defective design or manufacture of firearms or ammunition.

6. Nothing in this section shall prevent the state, a county, city, town, village or any other political subdivision from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or such political subdivision.

252.243. HUNTING HERITAGE PROTECTION AREAS DESIGNATED, WHERE — NO TIF PROJECTS PERMITTED, EXCEPTIONS-DISCHARGE OF FIREARMS PROHIBITED — AREAS NOT INCLUDED. — 1. This section shall be known as and may be cited as the "Hunting Heritage Protection Areas Act". Hunting heritage protection areas shall include all land located within the one hundred-year flood plain of the Missouri River and all land located within the one hundred-year flood plain of the Mississippi River, as designated by the Federal Emergency Management Agency as amended from time to time.

2. In addition to the provisions of section 99.847, RSMo, no new tax increment financing project shall be authorized in any hunting heritage protection area after August 28, 2007. This subsection shall not apply to tax increment financing projects or districts approved:

(1) Prior to August 28, 2007, and shall allow the modification, amendment, or expansion of such projects including redevelopment project costs by not more than forty percent of such project's original projected cost and the tax increment finance district by not more than five percent of the district as it existed as of August 28, 2007;

(2) For the purpose of flood or drainage protection and for any public infrastructure included therewith; or

(3) For the purpose of constructing or operating a renewable fuel facility as defined in section 348.430, RSMo, or for the purpose of providing infrastructure necessary solely for the construction or operation of such renewable fuel production facility, provided no residential, commercial, or industrial development not directly associated with the production of renewable fuel shall occur within a hunting heritage protection area, either directly or indirectly, as a result of such tax increment financing project.

3. The discharge of firearms for lawful hunting, sporting, target shooting, and all other lawful purposes shall not be prohibited in hunting heritage protection areas, subject to all applicable state and federal laws, and local ordinances prohibiting hunting or the discharge of firearms adopted before August 28, 2007.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, hunting heritage protection areas shall not include:

(1) Any area with a population of not less than fifty thousand persons that has been defined and designated in the 2000 United States Census as an "urbanized area" by the United States Secretary of Commerce;

(2) Any land ever owned by an entity regulated by the Federal Energy Regulatory Commission or any land ever used or operated by an entity regulated by the Federal Energy Regulatory Commission;

(3) Any land used for the operation of a physical port of commerce to include customs ports, but shall not include other land managed or governed by a port authority if such other land extends beyond the actual physical port;

(4) Any land contained within the boundary of any home rule city with more than four hundred thousand inhabitants and located in more than one county, or any land contained within a city not within a county; or

(5) Any land located within one-half mile of any interstate highway, as such highways exist as of August 28, 2007.

Approved July 3, 2007

SB 233 [CCS SB 233]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a sales tax to fund certain services

AN ACT to repeal sections 67.797, 67.1003, 100.050, and 100.059, RSMo, and to enact in lieu thereof seven new sections relating to local taxes.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.797, 67.1003, 100.050, and 100.059, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.113, 67.797, 67.997, 67.1003, 82.875, 100.050, and 100.059, to read as follows:

67.113. SHORT TITLE — CHILDREN'S SERVICES FUND REIMBURSEMENT. — 1. This section shall be known and may be cited as "The Children's Services Protection Act".

2. Any city or county which has levied the sales tax under section 67.1775 to provide services for children in need shall reimburse the community children's services fund in an amount equal to the portion of revenue from the tax that is used for or diverted to any redevelopment plan or project approved or adopted after August 28, 2007, in any tax increment financing district in any county in this state.

67.797. BOARD OF DIRECTORS APPOINTED FOR DISTRICT OR ELECTED IN CERTAIN DISTRICTS (CLAY COUNTY), QUALIFICATIONS — TERMS — OFFICERS — POWERS AND DUTIES — MONEY TO BE DEPOSITED IN TREASURY OF COUNTY CONTAINING LARGEST PORTION OF DISTRICT. — 1. When a regional recreational district is organized in only one county, the executive, as that term is defined in subdivision (4) of section 67.750, with the advice and consent of the governing body of the county shall appoint a board of directors for the district consisting of seven persons, chosen from the residents of the district. Where the district is in more than one county, the executives, as defined in subdivision (4) of section 67.750, of the counties in the district **[**shall**]**, with the advice and consent of the governing bodies of each county shall, as nearly as practicable, evenly appoint such members and allocate staggered terms pursuant to subsection 2 of this section, with the county having the largest area within the district appointing a greater number of directors if the directors cannot be appointed evenly. No member of the governing body of the county or official of any municipal government located within the district shall be a member of the board and no director shall receive compensation for performance of duties as a director. Members of the board of directors shall be citizens of the United States and they shall reside within the district. No board member shall be interested directly or indirectly in any contract entered into pursuant to sections 67.792 to 67.799.

2. The directors appointed to the regional recreation district shall hold office for three-year terms, except that of the members first appointed, two shall hold office for one year, two shall hold office for two years and three shall hold office for three years. The executives of the counties within the regional recreational district shall meet to determine and implement a fair allocation of the staggered terms among the counties, provided that counties eligible to appoint more than one board member may not appoint board members with identical initial terms until each of a one-year, two-year and three-year initial term has been applied to such county. On the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by the executives of the respective counties, with the advice and consent of the respective governing bodies. All vacancies on the board shall be filled in the same manner for the duration of the term being filled. Board members shall serve until their successors are named and such successors have commenced their terms as board members. Board members shall be eligible for reappointment. Upon the petition of the county executive of the county from which the board member received his or her appointment, the governing body of the county may remove any board member for misconduct or neglect of duties.

3. Notwithstanding any other provision of sections 67.750 to 67.799, to the contrary, after August 28, 2004, in any district located in whole or in part in any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, upon the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by election at the next regularly scheduled election date throughout the district. In the event that a vacancy exists before the expiration of a term, the governing body of the county shall appoint a member for the remainder of the unexpired term. Board members shall be elected for terms of three years. Such elections shall be held according to this section and the applicable laws of this state. If no person files as a candidate for election to the vacant office within the applicable deadline for filing as a candidate, then the governing body of any such county shall appoint a person to be a member of the board for a term of three years. Any appointed board members shall be eligible to run for office.

4. Directors shall immediately after their appointment meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. The directors shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the parks, neighborhood trails and recreational grounds and facilities as may be expedient, not inconsistent with sections 67.792 to 67.799. They shall have the exclusive control of the expenditures of all money collected to the credit of the regional recreational fund and of the supervision, improvement, care and custody of public parks,

neighborhood trails, recreational facilities and grounds owned, maintained or managed by the district. All moneys received for such purposes shall be deposited in the treasury of the county containing the largest portion of the district to the credit of the regional recreational fund and shall be kept separate and apart from the other moneys of such county. Such board shall have power to purchase or otherwise secure ground to be used for such parks, neighborhood trails, recreational grounds and facilities, shall have power to appoint suitable persons to maintain such parks, neighborhood trails and recreational facilities and administer recreational programs and fix their compensation, and shall have power to remove such appointees.

5. The board of directors may issue debt for the district pursuant to section 67.798.

6. If a county, or a portion of a county, not previously part of any district, shall enter a district, the executives of the new member county and any previous member counties shall promptly meet to apportion the board seats among the counties participating in the enlarged district. All purchases in excess of ten thousand dollars used in the construction or maintenance of any public park, neighborhood trail or recreational facility in the regional recreation district shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the district shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.

7. Notwithstanding any other provisions in this section to the contrary, when a regional recreational district is organized in only one county on land owned solely by the county, the governing body of the county shall have exclusive control of the expenditures of all moneys collected to the credit of the regional recreational fund, and of the supervision, improvement, care, and custody of public parks, neighborhood trails, recreational facilities, and grounds owned, maintained, or managed by the county within the district.

67.997. SENIOR SERVICES AND YOUTH PROGRAM SALES TAX — BALLOT LANGUAGE — TRUST FUND CREATED, USE OF MONEYS (PERRY COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eighteen thousand one hundred but fewer than eighteen thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding senior services and youth programs provided by the county. One-half of all revenue collected under this section, less one-half the cost of collection, shall be used solely to fund any service or activity deemed necessary by the senior service tax commission established in this section, and one-half of all revenue collected under this section, less one-half the cost of collection, shall be used solely to fund all youth programs administered by an existing county community task force. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the county) impose a sales tax at a rate of ..... (insert rate of percent) percent, with half of the revenue from the tax to be used solely to fund senior services provided by the county and half of the revenue from the tax to be used solely to fund youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following the approval of the tax or notification to the department of revenue if such tax will be administered by the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. On or after the effective date of any tax authorized under this section, the county which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Senior Services and Youth Programs Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and

penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding senior services and youth programs provided by the county?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Each county imposing the tax authorized in this section shall establish a senior services tax commission to administer the portion of the sales tax revenue dedicated to providing senior services. Such commission shall consist of seven members appointed by the county commission. The county commission shall determine the qualifications, terms of office, compensation, powers, duties, restrictions, procedures, and all other necessary functions of the commission.

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county,

other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county **[**or**];** (1) or a county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants; (2) or a third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand; (3) or a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand; (4) or any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand; (5) or any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants; **(6) or any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants** may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed in any city or county already imposing such tax pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

3. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city or county) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

[ ] YES [ ] NO

4. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

82.875. POLICE SERVICES SALES TAX — VOTE REQUIRED — FUND CREATED, USE OF MONEYS (CITY OF INDEPENDENCE). — 1. The governing body of any home rule city with more than one hundred thirteen thousand two hundred but fewer than one hundred thirteen thousand three hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one percent of the gross receipts of such retail sales, may be imposed in increments of one-eighth of one percent, and shall be imposed solely for the purpose of funding police services provided by the police department of the city. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. No such order or ordinance adopted under this section shall become effective unless the governing body of the city submits to the voters residing within the city at a

state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notification of adoption of the local sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "City Police Services Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

100.050. APPROVAL OF PLAN BY GOVERNING BODY OF MUNICIPALITY — INFORMATION REQUIRED — ADDITIONAL INFORMATION REQUIRED, WHEN — PAYMENTS IN LIEU OF TAXES, APPLIED HOW. — 1. Any municipality proposing to carry out a project for industrial development shall first, by majority vote of the governing body of the municipality, approve the plan for the project. The plan shall include the following information pertaining to the proposed project:

(1) A description of the project;

(2) An estimate of the cost of the project;

(3) A statement of the source of funds to be expended for the project;

(4) A statement of the terms upon which the facilities to be provided by the project are to be leased or otherwise disposed of by the municipality; and

(5) Such other information necessary to meet the requirements of sections 100.010 to 100.200.

2. If the plan for the project is approved after August 28, 2003, and the project plan involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality, the project plan shall additionally include the following information:

(1) A statement identifying each school district, junior college district, county, or city affected by such project except property assessed by the state tax commission pursuant to chapters 151 and 153, RSMo;

(2) The most recent equalized assessed valuation of the real property and personal property included in the project, and an estimate as to the equalized assessed valuation of real property and personal property included in the project after development;

(3) An analysis of the costs and benefits of the project on each school district, junior college district, county, or city; and

(4) Identification of any payments in lieu of taxes expected to be made by any lessee of the project, and the disposition of any such payments by the municipality.

3. If the plan for the project is approved after August 28, 2003, any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of issuing the bonds and administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each school district, junior college district, county, or city in proportion to the current ad valorem tax levy of each school district, junior college district, county, or city; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants**, or any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants**, if the plan for the project is approved after May 15, 2005, such amounts shall be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity.

100.059. NOTICE OF PROPOSED PROJECT FOR INDUSTRIAL DEVELOPMENT, WHEN, CONTENTS — LIMITATION ON INDEBTEDNESS, INCLUSIONS — APPLICABILITY, LIMITATION. — 1. The governing body of any municipality proposing a project for industrial development which involves issuance of revenue bonds or involves conveyance of a fee interest in property to a municipality shall, not less than twenty days before approving the plan for a project as required by section 100.050, provide notice of the proposed project to the county in which the municipality is located and any school district that is a school district, junior college district, county, or city; however, in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants**, or any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants,** if the

plan for the project is approved after May 15, 2005, such notice shall be provided to all affected taxing entities in the county. Such notice shall include the information required in section 100.050, shall state the date on which the governing body of the municipality will first consider approval of the plan, and shall invite such school districts, junior college districts, counties, or cities to submit comments to the governing body and the comments shall be fairly and duly considered.

2. Notwithstanding any other provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to section 26(b), article VI, Constitution of Missouri, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes.

3. The county assessor shall include the current assessed value of all property within the school district, junior college district, county, or city in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to section 26(b), article VI, Constitution of Missouri.

4. This section is applicable only if the plan for the project is approved after August 28, 2003.

Approved June 30, 2007

SB 257 [SB 257]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the treatment of firearms during state emergencies

AN ACT to amend chapter 44, RSMo, by adding thereto one new section relating to treatment of firearms during emergencies.

SECTION
A. Enacting clause.
44.101. Firearms and ammunition, state of emergency, no restrictions permitted.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 44, RSMo, is amended by adding thereto one new section, to be known as section 44.101, to read as follows:

44.101. FIREARMS AND AMMUNITION, STATE OF EMERGENCY, NO RESTRICTIONS PERMITTED. — The state, any political subdivision, or any person shall not prohibit or restrict the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during an emergency.

Approved April 12, 2007

SB 270 [HCS SB 270]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to the POST Commission

AN ACT to repeal sections 590.120 and 590.190, RSMo, and to enact in lieu thereof two new sections relating to the POST commission.

SECTION

A. Enacting clause.
590.120. Peace officer standards and training commission established — members, qualifications, appointment — terms — duties — removal from office — vacancies — chairperson, appointment — rules and regulations, authority.
590.190. Rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 590.120 and 590.190, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 590.120 and 590.190, to read as follows:

590.120. PEACE OFFICER STANDARDS AND TRAINING COMMISSION ESTABLISHED — MEMBERS, QUALIFICATIONS, APPOINTMENT — TERMS — DUTIES — REMOVAL FROM OFFICE — VACANCIES — CHAIRPERSON, APPOINTMENT — RULES AND REGULATIONS, AUTHORITY. — 1. There is hereby established within the department of public safety a "Peace Officer Standards and Training Commission" which shall be composed of **[**nine**]** **eleven** members, including a voting public member, appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the director of the department of public safety. No **[**member**]** **more than two members** of the POST commission shall reside in the same congressional district as any other at the time of their appointments but this provision shall not apply to the public member. Three members of the POST commission shall be police chiefs, three members shall be sheriffs, one member shall represent a state law enforcement agency covered by the provisions of this chapter, **two members shall be peace officers at or below the rank of sergeant employed by a political subdivision,** and one member shall be a chief executive officer of a certified training academy. The public member shall be at the time of appointment a registered voter; a person who is not and never has been a member of any profession certified or regulated under this chapter or the spouse of such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession certified or regulated under this chapter. Each member of the POST commission shall have been at the time of his appointment a citizen of the United States and a resident of this state for a period of at least one year, and members who are peace officers shall be qualified as established by this chapter. No member of the POST commission serving a full term of three years may be reappointed to the POST commission until at least one year after the expiration of his most recent term.

2. Three of the original members of the POST commission shall be appointed for terms of one year, three of the original members shall be appointed for terms of two years, and three of the original members shall be appointed for terms of three years. Thereafter the terms of the members of the POST commission shall be for three years or until their successors are appointed. The director may remove any member of the POST commission for misconduct or neglect of office. Any member of the POST commission may be removed for cause by the director but such member shall first be presented with a written statement of the reasons thereof,

and shall have a hearing before the POST commission if the member so requests. Any vacancy in the membership of the commission shall be filled by appointment for the unexpired term. **No two members of the POST commission shall be employees of the same law enforcement agency.**

3. Annually the director shall appoint one of the members as chairperson. The POST commission shall meet at least twice each year as determined by the director or a majority of the members to perform its duties. A majority of the members of the POST commission shall constitute a quorum.

4. No member of the POST commission shall receive any compensation for the performance of his official duties.

5. The POST commission shall guide and advise the director concerning duties pursuant to this chapter.

590.190. RULEMAKING AUTHORITY. — The director is authorized to promulgate rules and regulations to implement the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

Approved May 31, 2007

SB 272 [HCS SCS SB 272]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the membership of the Advisory Commission for Physical Therapists

AN ACT to repeal sections 41.950, 214.275, 214.340, 327.621, 331.030, 333.011, 333.121, 334.610, 334.625, 337.510, 337.715, 338.035, 338.220, 339.507, 339.513, 339.519, 339.521, 339.525, and 660.315, RSMo, and to enact in lieu thereof twenty-four new sections relating to professional licensing of certain occupations, with penalty provisions.

SECTION

337.649. Documentation and disciplinary action prohibited, when — request to destroy documentation permitted, when — disclosure of complaint not required, when.
337.715. Qualifications for licensure, exceptions.
338.035. Application, contents — intern pharmacist — board shall promulgate rules, procedure.
338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
339.507. Real estate appraisers commission and chairperson, appointment — terms — vacancies, meetings — quorum — per diem — expenses.
339.513. Applications for examinations, original certification, licensure and renewals, requirements, contents, fees, how set — fund established — signed compliance pledge, required.
339.519. Term of license — expiration date to appear on certificate or license — continuing education requirement, proof.
339.521. Reciprocity for certification and licensure in another state, requirements.
339.525. Renewals, procedure — renewal of an expired certificate or license, when, fee — inactive status granted, when.
339.533. Authority of commission, oaths and subpoenas.
660.315. Employee disqualification list, notification of placement, contents — challenge of allegation, procedure — hearing, procedure — appeal — removal of name from list — list provided to whom — prohibition of employment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 41.950, 214.275, 214.340, 327.621, 331.030, 333.011, 333.121, 334.610, 334.625, 337.510, 337.715, 338.035, 338.220, 339.507, 339.513, 339.519, 339.521, 339.525, and 660.315, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 41.950, 214.275, 214.340, 327.621, 327.622, 331.030, 333.011, 333.121, 334.610, 334.625, 337.503, 337.510, 337.528, 337.649, 337.715, 338.035, 338.220, 339.507, 339.513, 339.519, 339.521, 339.525, 339.533, and 660.315, to read as follows:

41.950. MEMBERS OF MILITARY FORCES CALLED TO ACTIVE DUTY — RELIEVED FROM CERTAIN PROVISIONS OF LAW. — 1. Any resident of this state who is a member of the national guard or of any reserve component of the armed forces of the United States or who is a member of the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard or an officer of the United States Public Health Service detailed by proper authority for duty with any branch of the United States armed forces described in this section and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order by the President or Congress for any period of thirty days or more shall be relieved from certain provisions of state law, as follows:

(1) No person performing such military service who owns a motor vehicle shall be required to maintain financial responsibility on such motor vehicle as required under section 303.025, RSMo, until such time as that person completes such military service, unless any person shall be operating such motor vehicle while the vehicle owner is performing such military service;

(2) No person failing to renew his driver's license while performing such military service shall be required to take a complete examination as required under section 302.173, RSMo, when renewing his license within sixty days after completing such military service;

(3) Any motor vehicle registration required under chapter 301, RSMo, that expires for any person performing such military service may be renewed by such person within sixty days of completing such military service without being required to pay a delinquent registration fee; however, such motor vehicle shall not be operated while the person is performing such military service unless the motor vehicle registration is renewed;

(4) Any person enrolled by the supreme court of Missouri or licensed, registered or certified under chapter 168, 256, 289, 317, **324,** 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, RSMo, **and**

interpreters licensed under sections 209.319 to 209.339, RSMo, whose license, registration or certification expires while performing such military service, may renew such license, registration or certification within sixty days of completing such military service without penalty;

(5) In the case of annual reports, franchise tax reports or other reports required to be filed with the office of secretary of state, where the filing of such report would be delayed because of a person performing such military service, such reports shall be filed without penalty within one hundred twenty days of the completion of such military service;

(6) No person performing such military service who is subject to a criminal summons for a traffic violation shall be subject to nonappearance sanctions for such violation until after one hundred eighty days after the completion of such military service;

(7) No person performing such military service who is required under state law to file financial disclosure reports shall be required to file such reports while performing such military service; however, such reports covering that period of time that such military service is performed shall be filed within one hundred eighty days after the completion of such military service;

(8) Any person with an indebtedness, liability or obligation for state income tax or property tax on personal or real property who is performing such military service or a spouse of such person filing a combined return or owning property jointly shall be granted an extension to file any papers or to pay any obligation until one hundred eighty days after the completion of such military service or continuous hospitalization as a result of such military service notwithstanding the provisions of section 143.991, RSMo, to the contrary and shall be allowed to pay such tax without penalty or interest if paid within the one-hundred-eighty-day period;

(9) Notwithstanding other provisions of the law to the contrary, for the purposes of this section, interest shall be allowed and paid on any overpayment of tax imposed by sections 143.011 to 143.998, RSMo, at the rate of six percent per annum from the original due date of the return or the date the tax was paid, whichever is later;

(10) No state agency, board, commission or administrative tribunal shall take any administrative action against any person performing such military service for that person's failure to take any required action or meet any required obligation not already provided for in subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of such military service, except that any agency, board, commission or administrative tribunal affected by this subdivision may, in its discretion, extend the time required to take such action or meet such obligation beyond the one-hundred-eighty-day period;

(11) Any disciplinary or administrative action or proceeding before any state agency, board, commission or administrative tribunal where the person performing such military service is a necessary party, which occurs during such period of military service, shall be stayed by the administrative entity before which it is pending until sixty days after the end of such military service.

2. Upon completing such military service, the person shall provide the appropriate agency, board, commission or administrative tribunal an official order from the appropriate military authority as evidence of such military service.

3. The provisions of this section shall apply to any individual defined in subsection 1 of this section who performs such military service on or after August 2, 1990.

214.275. LICENSE, CEMETERIES — DIVISION'S POWERS AND DUTIES — LIMITATIONS. — 1. No endowed care or nonendowed care cemetery shall be operated in this state unless the owner or operator thereof has a license issued by the division and complies with all applicable state, county or municipal ordinances and regulations.

2. It shall not be unlawful for a person who does not have a license to care for or maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of human remains in burial spaces.

3. Applications for a license shall be in writing, submitted to the division on forms prescribed by the division. The application shall contain such information as the division deems necessary and be accompanied by the required fee.

4. Each license issued pursuant to sections 214.270 to 214.516 shall be renewed prior to the license renewal date established by the division. The division shall issue a new license upon receipt of a proper renewal application**, trust fund report as required by section 214.340,** and the required renewal fee. The required renewal fee shall be fifty dollars, plus an assessment for each interment, inurnment or other disposition of human remains at a cemetery for which a charge is made, as the division shall by rule determine, not to exceed ten dollars per such disposition in the case of an endowed care cemetery, and six dollars for such disposition in the case of a nonendowed care cemetery. The division shall mail a renewal notice to the last known address of the holder of the license prior to the renewal date. The holder of a license shall keep the division advised of the holder's current address. The license issued to the owner or operator of a cemetery which is not renewed within three months after the license renewal date shall be suspended automatically, subject to the right of the holder to have the suspended license reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any license suspended and not reinstated within nine months of the suspension shall expire and be void and the holder of such license shall have no rights or privileges provided to holders of valid licenses. Any person whose license has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original license number.

5. The division shall grant or deny each application for a license pursuant to this section within ninety days after it is filed, and no prosecution of any person who has filed an application for such license shall be initiated unless it is shown that such application was denied by the division and the owner was notified thereof.

6. Upon the filing of a completed application, as defined by rule, the applicant may operate the business until the application is acted upon by the division.

7. Within thirty days after the sale or transfer of ownership or control of a cemetery, the transferor shall return his or her license to the division. A prospective purchaser or transferee of a cemetery shall file an application for a license at least thirty days prior to the sale or transfer of ownership or control of a cemetery and shall be in compliance with sections 214.270 to 214.516.

214.340. REPORT REQUIRED — CONTENT — OATH — FILING REQUIRED. — 1. Each operator of an endowed care cemetery shall maintain at an office in the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable distance of the cemetery, the reports of the endowed care fund's operation for the preceding seven years. Each report shall contain, at least, the following information:

(1) Name and address of the trustee of the endowed care fund and the depository, if different from the trustee;

(2) Balance per previous year's report;

(3) Principal contributions received since previous report;

(4) Total earnings since previous report;

(5) Total distribution to the cemetery operator since the previous report;

(6) Current balance;

(7) A statement of all assets listing cash, real or personal property, stocks, bonds, and other assets, showing cost, acquisition date and current market value of each asset;

(8) Total expenses, excluding distributions to cemetery operator, since previous report; and

(9) A statement of the cemetery's total acreage and of its developed acreage.

2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the

cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

3. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration **[**within ninety days of the close of the trust fund's fiscal year**]** **as condition of license renewal as required by subsection 4 of section 214.275**. The report shall not be sent to the state board of embalmers and funeral directors.

4. Each cemetery operator who establishes a segregated account pursuant to subsection 1 of section 214.385 shall file with the report required under subsection 1 of this section a segregated account report that shall provide the following information:

(1) The number of monuments, markers and memorials that have been deferred for delivery by purchase designation;

(2) The aggregate wholesale cost of all such monuments, markers and memorials; and

(3) The amount on deposit in the segregated account established pursuant to section 214.385, and the account number.

327.621. LICENSE ISSUANCE AND RENEWAL, FEE — FAILURE TO RENEW, EFFECT — REINSTATEMENT FEE MUST BE PAID WHEN — LICENSE NOT RENEWED TO EXPIRE, WHEN — RENEWAL OR REREGISTRATION FORM AND FEE. — 1. The **professional** license issued to every landscape architect in Missouri**, and certificates of authority issued to corporations under section 327.401,** shall be renewed on or before the license renewal date, provided that the required fee is paid. **The board may establish, by rule, continuing education requirements as a condition to renewing the license of a landscape architect, provided that the board shall not require more than thirty such hours.** The license of a landscape architect **or the certificate of authority issued to any corporation** which is not renewed within three months of the renewal date shall be suspended automatically, subject to the right of the holder thereof to have such suspended license reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any license **or certificate of authority** suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder thereof shall have no rights or privileges thereunder; provided, however, any person **or corporation** whose license has expired **under this section** may within the discretion of the board, upon payment of the fee **[**provided pursuant to section 327.625**]**, be relicensed or reauthorized under **[**his or its**]** **such person's or such corporation's** original license number.

2. Each application for the renewal of a **[**licensure**]** **license** shall be on a form furnished to the applicant and shall be accompanied by the required fee**, but no renewal fee need be paid by any landscape architect over the age of seventy-five**.

327.622. INACTIVE LICENSE STATUS PERMITTED, WHEN. — 1. A landscape architect licensed in this state may apply to the board for inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive shall not offer or practice landscape architecture within this state, but may continue to use the title "landscape architect".

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of such intention by paying appropriate fees as determined by the board, and by meeting all established requirements of the board including the demonstration of current knowledge, competency, and skill in the practice of landscape architecture as a condition of reinstatement.

3. In the event an inactive licensee does not maintain a current license in any state for a five-year period immediately prior to requesting reinstatement, that person may be required to take an examination as the board deems necessary to determine such person's

qualifications. Such examination shall cover areas designed to demonstrate proficiency in the knowledge of current methods of landscape architecture.

331.030. APPLICATION FOR LICENSE, REQUIREMENTS, FEES — RECIPROCITY — RULEMAKING, PROCEDURE. — 1. No person shall engage in the practice of chiropractic without having first secured a chiropractic license as provided in this chapter.

2. Any person desiring to procure a license authorizing the person to practice chiropractic in this state shall be at least twenty-one years of age and shall make application on the form prescribed by the board. The application shall contain a statement that it is made under oath or affirmation and that representations contained thereon are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties of making a false affidavit or declaration, and shall give the applicant's name, address, age, sex, name of chiropractic schools or colleges which the person attended or of which the person is a graduate, and such other reasonable information as the board may require. The applicant shall give evidence satisfactory to the board of the successful completion of the educational requirements of this chapter, that the applicant is of good moral character, and that the chiropractic school or college of which the applicant is a graduate is teaching chiropractic in accordance with the requirements of this chapter. The board may make a final determination as to whether or not the school from which the applicant graduated is so teaching.

3. Before **[**a person**]** **an applicant** shall be eligible **[**to sit for a practical examination**]** **for licensure**, the applicant shall furnish evidence satisfactory to the board that the applicant has received**[**, prior to entering chiropractic college, a minimum of sixty credit hours, leading to a baccalaureate degree, from a preprofessional college, which credit**]** **the minimum number of semester credit hours, as required by the Council on Chiropractic Education, or its successor, prior to beginning the doctoral course of study in chiropractic. The minimum number of semester credit hours applicable at the time of enrollment in a doctoral course of study** must be in those subjects, hours and course content as may be provided for by the Council on Chiropractic Education or, in the absence of the Council on Chiropractic Education or its provision for such subjects, **such** hours and course content**[**,**]** as adopted by rule of the board**; however in no event shall fewer than ninety semester credit hours be accepted as the minimum number of hours required prior to beginning the doctoral course of study in chiropractic**. The examination applicant shall also provide evidence satisfactory to the board of having graduated from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education or its successor. Any senior student in a chiropractic college having status with the Commission on Accreditation on the Council on Chiropractic Education or its successor may take a practical examination administered or approved by the board under such requirements and conditions as are adopted by the board by rule, but no license shall be issued until all of the requirements for licensure have been met.

4. Each applicant shall pay upon application an application or examination fee. All moneys collected pursuant to the provisions of this chapter shall be nonrefundable and shall be collected by the director of the division of professional registration who shall transmit it to the department of revenue for deposit in the state treasury to the credit of the chiropractic board fund. Any person failing to pass a practical examination administered or approved by the board may be reexamined upon fulfilling such requirements, including the payment of a reexamination fee, as the board may by rule prescribe.

5. Every applicant for licensure by examination shall have taken and successfully passed all required and optional parts of the written examination given by the National Board of Chiropractic Examiners, including the written clinical competency examination, under such conditions as established by rule of the board, and all applicants for licensure by examination shall successfully pass a practical examination administered or approved by the board and a written examination testing the applicant's knowledge and understanding of the laws and regulations regarding the practice of chiropractic in this state. The board shall issue to each

applicant who meets the standards and successful completion of the examinations, as established by rule of the board, a license to practice chiropractic. The board shall not recognize any correspondence work in any chiropractic school or college as credit for meeting the requirements of this chapter.

6. The board shall issue a license without examination to persons who have been regularly licensed to practice chiropractic in any other state, territory, or the District of Columbia, or in any foreign country, provided that the regulations for securing a license in the other jurisdiction are equivalent to those required for licensure in the state of Missouri, when the applicant furnishes satisfactory evidence that the applicant has continuously practiced chiropractic for at least one year immediately preceding the applicant's application to the board and that the applicant is of good moral character, and upon the payment of the reciprocity license fee as established by rule of the board. The board may require an applicant to successfully complete the special purposes examination for chiropractic (SPEC) administered by the National Board of Chiropractic Examiners if the requirements for securing a license in the other jurisdiction are not equivalent to those required for licensure in the state of Missouri at the time application is made for licensure under this subsection.

7. Any applicant who has failed any portion of the practical examination administered or approved by the board three times shall be required to return to an accredited chiropractic college for a semester of additional study in the subjects failed, as provided by rule of the board.

8. A chiropractic physician currently licensed in Missouri shall apply to the board for certification prior to engaging in the practice of meridian therapy/acupressure/acupuncture. Each such application shall be accompanied by the required fee. The board shall establish by rule the minimum requirements for the specialty certification under this subsection. "Meridian therapy/acupressure/acupuncture" shall mean methods of diagnosing and the treatment of a patient by stimulating specific points on or within the body by various methods including but not limited to manipulation, heat, cold, pressure, vibration, ultrasound, light, electrocurrent, and short-needle insertion for the purpose of obtaining a biopositive reflex response by nerve stimulation.

9. The board may through its rulemaking process authorize chiropractic physicians holding a current Missouri license to apply for certification in a specialty as the board may deem appropriate and charge a fee for application for certification, provided that:

(1) The board establishes minimum initial and continuing educational requirements sufficient to ensure the competence of applicants seeking certification in the particular specialty; and

(2) The board shall not establish any provision for certification of licensees in a particular specialty which is not encompassed within the practice of chiropractic as defined in section 331.010.

333.011. DEFINITIONS. — As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;

(2) "Embalmer", any individual licensed to engage in the practice of embalming;

(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;

(4) "Funeral establishment", a building, place**, crematory,** or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

(5) "Person" includes a corporation, partnership or other type of business organization;

(6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, or otherwise, of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

(7) "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and

the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.

333.121. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE, GROUNDS FOR. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

(16) Presigning a death certificate or signing a death certificate on a body not embalmed by, or under the personal supervision of, the licensee;

(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;

(18) Failure to execute and sign the **[**reverse side of a**]** death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(20) Willfully and through undue influence selling a funeral;

(21) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

334.610. LICENSE TO PRACTICE REQUIRED, EXCEPTIONS — UNAUTHORIZED USE OF TITLES PROHIBITED. — Any person who holds himself or herself out to be a physical therapist or a licensed physical therapist within this state or any person who advertises as a physical therapist or claims that the person can render physical therapy services and who, in fact, does not hold a valid physical therapist license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist, or who uses in connection with such person's name the words or letters "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist without a valid existing license as a physical therapist issued to such person pursuant to the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. Nothing in sections 334.500 to 334.620 shall prohibit any person licensed in this state under chapter 331, RSMo, from carrying out the practice for which the person is duly licensed, or from advertising the use of physiologic and rehabilitative modalities; nor shall it prohibit any person licensed or registered in this state under section 334.735 or any other law from carrying out the practice for which the person is duly licensed or registered; nor shall it prevent professional and semiprofessional teams, schools, YMCA clubs, athletic clubs and similar organizations from furnishing treatment to their players and members. This section, also, shall not be construed so as to prohibit masseurs and masseuses from engaging in their practice not otherwise prohibited by law and provided they do not represent themselves as physical therapists. This section shall not apply to physicians and surgeons licensed under this chapter **or to a person in an entry level of a professional education program approved by the commission for accreditation of physical therapists and physical therapist assistant education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under onsite supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Services, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for healthcare providers**.

334.625. ADVISORY COMMISSION FOR PHYSICAL THERAPISTS CREATED — POWERS AND DUTIES — APPOINTMENT — TERMS — EXPENSES — COMPENSATION — STAFF — MEETINGS — QUORUM. — 1. There is hereby established an "Advisory Commission for Physical Therapists" which shall guide, advise and make recommendations to the board. The

commission shall approve the examination required by section 334.530 and shall assist the board in carrying out the provisions of sections 334.500 to 334.620.

2. The commission shall be appointed no later than October 1, 1989, and shall consist of five members appointed by the governor with the advice and consent of the senate. Each member shall be a citizen of the United States and a resident of this state**[**, and shall be licensed as a physical therapist by this state**]** **and four shall be licensed as physical therapists by this state, and one shall be licensed as a physical therapist assistant by this state**. Members shall be appointed to serve three-year terms, except that the first commission appointed shall consist of one member whose term shall be for one year; two members whose terms shall be for three years; and two members whose terms shall be for two years. The president of the Missouri Physical Therapy Association in office at the time shall, at least ninety days prior to the expiration of the term of a commission member or as soon as feasible after a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five physical therapists **[**qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Physical Therapy Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association**]** **if the commission member whose term is expiring is a physical therapist, or five physical therapist assistants if the commission member whose term is expiring is a physical therapist assistant, with the exception that the first commissioner to expire or vacancy created on the commission after August 28, 2007, shall be filled by the appointment of a physical therapist assistant. Each physical therapist and physical therapist assistant on the list submitted to the division of professional registration shall be qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Physical Therapy Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association**.

3. Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the board of healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least ten days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

337.503. DISCRIMINATION IN PROMULGATION OF REGULATIONS PROHIBITED. — No official, employee, board, commission, county, municipality, school district, agency of the state, or any other political subdivision thereof shall discriminate between persons licensed under sections 337.500 to 337.540 when promulgating regulations or when requiring or recommending services that legally may be performed by persons licensed under sections 337.500 to 337.540.

337.510. REQUIREMENTS FOR LICENSURE — RECIPROCITY — PROVISIONAL PROFESSIONAL COUNSELOR LICENSE ISSUED, WHEN, REQUIREMENTS — RENEWAL LICENSE FEE. — 1. Each applicant for licensure as a professional counselor shall furnish evidence to the committee that the applicant is at least eighteen years of age, is of good moral character, is a United States citizen or is legally present in the United States; and

(1) The applicant has completed a course of study as defined by the board rule leading to a master's, specialist's, or doctoral degree with a major in counseling; and

(2) The applicant has completed acceptable supervised counseling as defined by board rule. If the applicant has a master's degree with a major in counseling as defined by board rule, the applicant shall complete at least two years of acceptable supervised counseling experience subsequent to the receipt of the master's degree. The composition and number of hours comprising the acceptable supervised counseling experience shall be defined by board rule. An applicant may substitute thirty semester hours of post master's graduate study for one of the two required years of acceptable supervised counseling experience if such hours are clearly related to counseling;

(3) After August 28, 2007, each applicant shall have completed a minimum of three hours of graduate level coursework in diagnostic systems either in the curriculum leading to a degree or as post master's graduate level course work;

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state and who held a valid license as a professional counselor in another state at the time of application to the committee shall be granted a license to engage in professional counseling in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.

3. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States to practice as a professional counselor **who is at least eighteen years of age, is of good moral character, and is a United States citizen or is legally present in the United States** may be granted a license without examination to engage in the practice of professional counseling in this state upon the application to the board, payment of the required fee as established by the board, and satisfying one of the following requirements:

(1) Approval by the American Association of State Counseling Boards (AASCB) or its successor organization according to the eligibility criteria established by AASCB. The successor organization shall be defined by board rule; or

(2) In good standing and currently certified by the National Board for Certified Counselors or its successor organization and has completed acceptable supervised counseling experience as defined by board rule. The successor organization shall be defined by board rule; or

(3) Determination by the board that the requirements of the other state or territory are substantially the same as Missouri and certified by the applicant's current licensing entity that the applicant has a current license. The applicant shall also consent to examination of any disciplinary history.

4. The committee shall issue a license to each person who files an application and fee and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of this act and has taken and passed a written, open-book examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.500. The division shall issue a provisional professional counselor license to any applicant who meets all requirements of this section, but who has not completed the required acceptable supervised counseling experience and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

5. All persons licensed to practice professional counseling in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as required by rule, which shall be no more than forty hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of the illness of the licensee or for other good cause.

337.528. CONFIDENTIALITY OF COMPLAINT DOCUMENTATION, WHEN — DESTRUCTION OF INFORMATION PERMITTED, WHEN. — 1. If the committee finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.525 have been violated. Any case file documentation that does not result in the committee filing an action under subsection 2 of section 337.525 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.525 have been violated.

2. Upon written request of the licensed professional counselor subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections that did not result in the committee filing an action under subsection 2 of section 337.525, the committee and the division of professional registration shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the committee's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the committee found the complaint to be unsubstantiated, that the committee has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their counseling professions.

337.649. DOCUMENTATION AND DISCIPLINARY ACTION PROHIBITED, WHEN — REQUEST TO DESTROY DOCUMENTATION PERMITTED, WHEN — DISCLOSURE OF COMPLAINT NOT REQUIRED, WHEN. — 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.630 or subsection 2 of section 337.680 have been violated. Any case file documentation that does not result in the board filing an action under subsection 2 of section 337.630 or subsection 2 of section 337.680 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.630 or subsection 2 of section 337.680 have been violated.

2. Upon written request of the social worker subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action under subsection 2 of section 337.630 or subsection 2 of section 337.680, the board and the division of professional registration, shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the board's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their social work professions.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. **[**A licensed marriage and family therapist who has had no violations and no suspensions and no revocation of a license to practice marriage and family therapy in any jurisdiction may receive a license in Missouri provided said marriage and family therapist passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.700, and meets one of the following criteria:

(1) Is a member in good standing and holds a certification from the Academy of Marriage and Family Therapists;

(2) Is currently licensed or certified as a licensed marriage and family therapist in another state, territory of the United States, or the District of Columbia; and

(a) Meets the educational standards set forth in subdivision (1) of subsection 1 of this section;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years; or

(3) Is currently licensed or certified as a marriage and family therapist in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications**]** **Any person otherwise qualified for licensure holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice marriage and family therapy may be granted a license without examination to engage in the practice of marital and family therapy in this state upon application to the state committee, payment of the required fee as established by the state committee, and satisfaction of the following:**

(1) Determination by the state committee that the requirements of the other state or territory are substantially the same as Missouri;

(2) Verification by the applicant's licensing entity that the applicant has a current license; and

(3) Consent by the applicant to examination of any disciplinary history in any state.

3. The **[**division**]** **state committee** shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739**[**, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section**]**.

338.035. APPLICATION, CONTENTS — INTERN PHARMACIST — BOARD SHALL PROMULGATE RULES, PROCEDURE. — 1. Every person who desires to be licensed as an intern pharmacist shall file with the board of pharmacy an application, on a form to be provided by the board of pharmacy.

2. If an applicant for an intern pharmacist license has complied with the requirements of this section and with the rules and regulations of the board of pharmacy and is not denied a license on any of the grounds listed in section 338.055, the board of pharmacy may issue to him a license to practice as an intern pharmacist **[**for a period not to exceed one year**]**.

3. Any intern pharmacist who wishes to renew his license shall within thirty days before the license expiration date file an application for a renewal.

4. A licensed intern pharmacist may practice pharmacy only under the direct supervision of a pharmacist licensed by the board.

5. The board of pharmacy shall promulgate rules and regulations which shall further regulate the duties **[**and restrictions**]** of intern pharmacists and shall set the amount of the fees which shall accompany the license and renewal applications for intern pharmacists.

6. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. The following classes of pharmacy permits or licenses are hereby established:

(1) Class A: Community/ambulatory;
(2) Class B: Hospital outpatient pharmacy;
(3) Class C: Long-term care;
(4) Class D: Nonsterile compounding;
(5) Class E: Radio pharmaceutical;
(6) Class F: Renal dialysis;
(7) Class G: Medical gas;
(8) Class H: Sterile product compounding;
(9) Class I: Consultant services;
(10) Class J: Shared service;
(11) Class K: Internet**;**
(12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: Veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding or dispensing of their own prescriptions.

339.507. REAL ESTATE APPRAISERS COMMISSION AND CHAIRPERSON, APPOINTMENT — TERMS — VACANCIES, MEETINGS — QUORUM — PER DIEM — EXPENSES. — 1. There is hereby created within the division of professional registration of the department of economic development the "Missouri Real Estate Appraisers Commission", which shall consist of seven members appointed by the governor with the advice and consent of the senate, six of whom shall be appraiser members, and one shall be a public member. Each member shall be a resident of this state and a registered voter for a period of one year prior to the person's appointment. The president of the Missouri Appraiser Advisory Council in office at the time shall, at least ninety days prior to the expiration of the term of the commission member, other than the public member, or as soon as feasible after the vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five appraisers qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The public member shall have never been engaged in the businesses of real estate appraisal, real estate sales or making loans secured by real estate. **[**The governor shall designate one of the appraiser appointees to be chairperson.**]**

2. The real estate appraiser members appointed by the governor shall be Missouri residents who have real estate appraisal experience in the state of Missouri for not less than five years immediately preceding their appointment. **[**The real estate appraiser members appointed to the commission shall be designated members in good standing of nationally recognized real estate appraisal organizations that required, as of June 1, 1988, in order to become a designated member, appraisal experience, education and testing, and recertification that is at least equal to that required for certification or licensure pursuant to sections 339.500 to 339.549, provided that not more than one member of the commission shall be a designated member of the same nationally recognized real estate appraisal organization. Successor**]** Appraiser members of the commission shall be appointed from the registry of state-certified real estate appraisers and state-licensed real estate appraisers **[**and not more than one successor appraiser member of the commission shall be a designated member in good standing of the same nationally recognized real estate appraisal organization as provided in this subsection. The governor shall not exclude a state-certified real estate appraiser or a state-licensed real estate appraiser from appointment as a successor appraiser member of the commission by virtue of membership or lack of membership of the state-certified real estate appraiser or state-licensed real estate appraiser in any particular real estate appraisal organization**]**.

3. **[**Of the initial members appointed, two members shall be appointed for one-year terms, two members for two-year terms, and three members for three-year terms, provided that the initial public member shall be appointed for a three-year term. All successor**]** **All** members shall be appointed for three-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the commission for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the commission shall continue to hold office until the appointment and qualification of their successors. No more than four members of the commission shall be members of the same political party. No person shall be appointed for more than two consecutive terms. The governor may remove a member for cause. **[**The executive director of the commission shall be employed by the division of professional registration, subject to approval and confirmation by the commission.**]**

4. The commission shall meet at least once each calendar quarter to conduct its business. **[**The location in Missouri of future meetings shall be decided by a vote of the members present at the current meeting. The executive director shall give written notice by certified mail to each member of the time and place of each meeting of the commission at least ten days before the scheduled date of the meeting, and notice of any special meeting shall state the specific matters

to be considered in the special meeting which is not a regular quarterly meeting.**]** A quorum of the commission shall consist of four members.

5. Each member of the commission shall be entitled to a per diem allowance of fifty dollars for each meeting of the commission at which the member is present and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. Each member of the commission shall be entitled to reimbursement of travel expenses necessarily incurred in attending meetings of the commission.

339.513. APPLICATIONS FOR EXAMINATIONS, ORIGINAL CERTIFICATION, LICENSURE AND RENEWALS, REQUIREMENTS, CONTENTS, FEES, HOW SET — FUND ESTABLISHED — SIGNED COMPLIANCE PLEDGE, REQUIRED. — 1. Applications for examination, original certification and licensure, and renewal certification and licensure shall be made in writing to the commission on forms provided by the commission. The application shall specify the classification of certification, or licensure, for which application is being made.

2. Appropriate fees shall accompany all applications for examination, original certification or licensure, and renewal certification or licensure; provided that such fees shall be in amounts set by the commission in order to offset the cost and expense of administering sections 339.500 to 339.549, and in amounts to be determined by the commission with reference to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and as may be amended. All fees collected pursuant to this subsection shall be collected by the commission and deposited with the state treasurer into a fund to be known as the "Missouri Real Estate Appraisers Fund". The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund shall not apply to the Missouri real estate appraisers fund. **In any proceeding in which a remedy provided by subsection 1 or 2 of section 339.532 is imposed, the commission may also require the respondent licensee to pay the costs of the proceeding if the commission is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the "Missouri Real Estate Appraisers Fund".**

3. At the time of filing an application for certification or licensure, each applicant shall sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state-certified real estate appraiser or a state-licensed real estate appraiser.

339.519. TERM OF LICENSE — EXPIRATION DATE TO APPEAR ON CERTIFICATE OR LICENSE — CONTINUING EDUCATION REQUIREMENT, PROOF. — 1. The term of an original certificate or license issued pursuant to sections 339.500 to 339.549 shall be for a period set by the commission. All certificates and licenses shall be subject to renewal on the same date. The expiration date of the certificate or license shall appear on the certificate or license and no other notice of its expiration need be given to its holder.

2. The commission shall require every state-certified or state-licensed real estate appraiser to provide satisfactory evidence of the completion of the required continuing education hours as promulgated by the appraiser qualifications board. **[**The commission may waive the requirements of continuing education for retired or disabled licensed or certified appraisers or for other good cause.**]**

339.521. RECIPROCITY FOR CERTIFICATION AND LICENSURE IN ANOTHER STATE, REQUIREMENTS. — **[**If, in the determination by the commission, another state is deemed to have substantially equivalent certification or licensure requirements,**]** An applicant who is certified or licensed under the laws of **[**such other**]** **another** state may obtain certification as a state certified real estate appraiser or licensure as a state licensed real estate appraiser in this state upon such terms and conditions as may be determined by the board, provided that such terms and

conditions shall comply with the minimum criteria for certification or licensure issued by the appraiser qualifications board of the appraisal foundation.

339.525. RENEWALS, PROCEDURE — RENEWAL OF AN EXPIRED CERTIFICATE OR LICENSE, WHEN, FEE — INACTIVE STATUS GRANTED, WHEN. — 1. To obtain a renewal certificate or license, a state certified real estate appraiser or state licensed real estate appraiser shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty days nor later than thirty days prior to the expiration date of the certificate or license then held. With the application for renewal, the state certified real estate appraiser or state licensed real estate appraiser shall present evidence in the form prescribed by the commission of having completed the continuing education requirements for renewal specified in section 339.530.

2. If the commission determines that a state certified real estate appraiser or state licensed real estate appraiser has failed to meet the requirements for renewal of certification or licensure through mistake, misunderstanding, or circumstances beyond the appraiser's control, the commission may extend the term of the certificate or license for good cause shown for a period not to exceed six months, upon payment of a prescribed fee for the extension.

3. **[**If a state certified real estate appraiser or state licensed real estate appraiser satisfies the requirements for renewal during the extended term of certification or licensure, the beginning date of the new renewal certificate or license shall be the day following the expiration of the certificate or license previously held by the state certified real estate appraiser or state licensed real estate appraiser.

4.**]** If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within **[**one year**] two years** from the date of expiration. To renew such expired certification or license, the person shall submit an application for renewal, pay the renewal fee **[**and**],** pay a delinquent renewal fee as established by the commission**, and present evidence in the form prescribed by the commission of having completed the continuing education requirements for renewal specified in section 339.530**. Upon a finding of extenuating circumstances, the commission may waive the payment of the delinquent fee.

[5.**] 4.** If a person has failed to renew the person's license within **[**one year**] two years** of its expiration**[**, the person may renew such expired certification or license by completing either the number of hours of continuing education equal to fifty percent of the hours required for initial certification or licensure or pass the state examination for such classification, submit an application for renewal, pay the renewal fee and pay a delinquent renewal fee not to exceed an amount as established by the commission. Upon a finding of extenuating circumstances, the commission may waive the payment of the delinquent fee**] the license shall be void**.

5. The commission is authorized to issue an inactive certificate or license to any licensee who makes written application for such on a form provided by the commission and remits the fee for an inactive certificate or license established by the commission. An inactive certificate or license may be issued only to a person who has previously been issued a certificate or license to practice as a real estate appraiser in this state, who is no longer regularly engaged in such practice, and who does not hold himself or herself out to the public as being professionally engaged in such practice in this state. Each inactive certificate or license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive certificate or license may be renewed by the commission subject to all provisions of this section and all other provisions of this chapter. An inactive licensee may apply for a certificate or license to regularly engage in the practice of real estate appraising upon filing a written application on a form provided by the commission, submitting the reactivation fee established by the commission and submitting satisfactory proof of current competency as established by the commission.

[6. If a state certified real estate appraiser or state licensed real estate appraiser renews an expired certification or license pursuant to subsection 5 of this section, the beginning date of the

new term of certification or licensure shall be the day following the expiration of the certification or license term previously held by the state certified real estate appraiser or state licensed real estate appraiser.**]**

339.533. AUTHORITY OF COMMISSION, OATHS AND SUBPOENAS. — 1. The chairperson of the commission may administer oaths, issue subpoenas, and issue subpoenas duces tecum requiring the production of documents and records. Subpoenas and subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the commission may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The commission may enforce its subpoenas and subpoenas duces tecum by applying to the circuit court of Cole County; the county of the investigation, hearing, or proceeding; or any county where the person subpoenaed resides or may be found, for an order to show cause why such subpoena should not be enforced, such order and a copy of the application therefore to be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

660.315. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without **the department providing** notice **[**by the department**] as required under subsection 1 of this section**, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536, RSMo, for a contested case except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this section and the rights and duties of

the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, RSMo, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536, RSMo. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as defined in chapter 562, RSMo;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation**, organization,** or association who:

(1) Is licensed as an operator under chapter 198, RSMo;

(2) Provides in-home services under contract with the department;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training; **[**or**]**

(5) Is an entity licensed under chapter 197, RSMo**; or**

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list.

The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing.

12. No person, corporation**, organization,** or association who received the employee disqualification list under **subdivisions (1) to (5) of** subsection 11 of this section shall knowingly

employ any person who is on the employee disqualification list. Any person, corporation**, organization,** or association who received the employee disqualification list under **subdivisions (1) to (5) of** subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer who is required to discharge an employee because the employee was placed on a disqualification list maintained by the department of health and senior services after the date of hire shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, RSMo.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

Approved July 13, 2007

SB 284 [HCS SS SCS SB 284]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes statewide video service franchise agreements

AN ACT to amend chapter 67, RSMo, by adding thereto twenty new sections relating to the provision of video services.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto twenty new sections, to be known as sections 67.2675, 67.2677, 67.2679, 67.2681, 67.2683, 67.2685, 67.2687, 67.2689, 67.2691, 67.2692, 67.2693, 67.2694, 67.2695, 67.2701, 67.2703, 67.2705, 67.2707, 67.2709, 67.2711, and 67.2714, to read as follows:

67.2675. CITATION OF LAW. — Sections 67.2675 to 67.2714 shall be known and may be cited as the "2007 Video Services Providers Act".

67.2677. DEFINITIONS. — For purposes of sections 67.2675 to 67.2714, the following terms mean:

(1) "Cable operator", as defined in 47 U.S.C. Section 522(5);

(2) "Cable system", as defined in 47 U.S.C. Section 522(7);

(3) "Franchise", an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of video service and any affiliated or subsidiary agreements related to such authorization;

(4) "Franchise area", the total geographic area authorized to be served by an incumbent cable operator in a political subdivision as of the effective date of sections 67.2675 to 67.2714 or, in the case of an incumbent local exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area within such political subdivision in which such carrier provides telephone exchange service;

(5) "Franchise entity", a political subdivision that was entitled to require franchises and impose fees on cable operators on the day before the date of enactment of sections 67.2675 to 67.2714, provided that only one political subdivision may be a franchise entity with regard to a geographic area;

(6) (a) "Gross revenues", limited to amounts billed to video service subscribers or received from advertisers for the following:

a. Recurring charges for video service;

b. Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;

c. Rental of set top boxes and other video service equipment;

d. Service charges related to the provision of video service, including but not limited to activation, installation, repair, and maintenance charges;

e. Administrative charges related to the provision of video service, including but not limited to service order and service termination charges; and

f. A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video service provider for advertising over the video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising;

(b) Gross revenues do not include:

a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;

b. Uncollectibles;

c. Late payment fees;

d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed on video service subscribers or video service providers in connection with the

provision of video services, including the video service provider fee authorized by this section;

e. Fees or other contributions for PEG or I-Net support; or

f. Charges for services other than video service that are aggregated or bundled with amounts billed to video service subscribers, if the entity holding a video service authorization reasonably can identify such charges on books and records kept in the regular course of business or by other reasonable means;

(c) Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles;

(7) "Household", an apartment, a house, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters;

(8) "Incumbent cable operator", the cable service provider serving cable subscribers in a particular franchise area on September 1, 2007;

(9) "Low income household", a household with an average annual household income of less than thirty-five thousand dollars as determined by the most recent decennial census;

(10) "Person", an individual, partnership, association, organization, corporation, trust, or government entity;

(11) "Political subdivision", a city, town, village, county;

(12) "Public right-of-way", the area of real property in which a political subdivision has a dedicated or acquired right-of-way interest in the real property, including the area on, below, or above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service;

(13) "Video programming", programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20);

(14) "Video service", the provision of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology whether provided as part of a tier, on demand, or a per channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public Internet;

(15) "Video service authorization", the right of a video service provider or an incumbent cable operator, that secures permission from the public service commission pursuant to sections 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;

(16) "Video service network", wireline facilities, or any component thereof, located at least in part in the public right-of-way that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable systems;

(17) "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;

(18) "Video service provider fee", the fee imposed under section 67.2689.

67.2679. PURPOSE STATEMENT — PREEMPTION OF REGULATION OF VIDEO SERVICES — STATE-ISSUED VIDEO SERVICES AUTHORIZATION REQUIRED, PROCEDURE. — 1. The general assembly finds and declares it to be the policy of the state of Missouri that consumers deserve the benefit of competition among all providers of video programming.

Creating a process for securing a state-issued video service authorization best promotes the substantial interest of the state of Missouri in facilitating a competitive marketplace that will, in turn, encourage investment and the deployment of new and innovative services in political subdivisions and provide benefits to the citizens of this state. The general assembly further finds and declares that franchise entities will benefit from immediate availability of the state-issued video service authorization to all video service providers, including new entrants and incumbent cable operators. In addition to the benefits to franchise entities found in sections 67.2675 to 67.2714, this immediate availability of state-issued video service authorization will promote fair competition among all video service providers in a local market and thereby provide new revenues to political subdivisions derived from additional video service customers, and the purchase of additional video services by such customers, and the sale of additional advertising by video service providers. This policy will provide a more predictable source of funding for franchise entities which will continue beyond the natural terms of all existing franchise agreements. The franchise entities will also experience cost savings associated with the administrative convenience of the enactment of the state-issued video service authorization. These benefits are full and adequate consideration to franchise entities, as the term "consideration" is used in article III, section 39(5) of the Missouri Constitution.

2. Except to the extent expressly set forth herein, upon issuance of a video service authorization, any existing or future franchise or ordinance adopted by a franchise entity that purports to regulate video service or video service networks or the franchising of video service providers shall be preempted as applied to such video service provider.

3. No person shall commence providing video service or commence construction of a video service network in any area until such person has obtained a state-issued video service authorization, under the provisions of sections 67.2675 to 67.2714.

4. The public service commission shall have the exclusive authority to authorize any person to construct or operate a video service network or offer video service in any area of this state. Notwithstanding provisions of this section to the contrary, a person with an existing and valid authorization to occupy the public rights-of-way may construct a video service network without first obtaining a video service authorization, but such person must obtain a video service authorization prior to commencing the provision of video service and otherwise comply with the provisions of sections 67.2675 to 67.2714. For purposes of the federal Cable Act, 47 U.S.C. 521, et seq., the rules and regulations of the Federal Communications Commission, and all applicable state laws and regulations, the public service commission shall be considered the sole franchising authority for the state, except with respect to a person that continues to provide video service under a franchise, franchise extension, or expired franchise or ordinance previously granted by a franchise entity. The public service commission shall have no authority to regulate the rates, terms, and conditions of video service, except to the extent explicitly provided under sections 67.2675 to 67.2714.

5. Any person seeking to commence providing video service in this state shall file an application for a video service authorization covering a franchise area or franchise areas with the public service commission and provide written notice to the affected political subdivisions of its intent to provide video service. The public service commission shall make such application public by posting a copy of the application on its website within three days of filing.

6. A holder of a video service authorization who seeks to include additional political subdivisions to be served must file with the public service commission a notice of change to its video service authorization that reflects the additional political subdivisions to be served.

7. The public service commission shall issue a video service authorization allowing the video service provider to offer video service in the franchise area of each political subdivision set forth in the application within thirty days of receipt of an affidavit

submitted by the applicant and signed by an officer or general partner of the applicant affirming the following:

(1) That the video service authorization holder agrees to comply with all applicable federal and state laws and regulations;

(2) A list of political subdivisions to be served by the applicant;

(3) The location of the principal place of business and the names of the principal executive officers of the applicant;

(4) That the video service provider has filed or will timely file with the Federal Communications Commission all forms required by that agency prior to offering video service;

(5) That the video service provider agrees to comply with all applicable regulations concerning use of the public rights-of-way as provided in sections 67.1830 to 67.1846; and

(6) That the video service provider is legally, financially, and technically qualified to provide video service.

8. The video service authorization issued by the public service commission shall contain the following:

(1) A grant of authority to provide video service in the franchise area of each political subdivision set forth in the application; and

(2) A grant of authority to construct a video service network along, across, or on public rights-of-way for the delivery of video service to the extent the video service provider or an affiliate did not otherwise possess a valid authorization to occupy the public rights-of-way.

9. (1) No existing franchise or ordinance issued by a franchising entity shall be renewed or extended beyond the expiration date of such franchise. Any person providing video service under a franchise, franchise extension or expired franchise or ordinance previously granted by a franchise entity may, at its option:

(a) Continue to provide service under the terms and conditions of such franchise, franchise extension, or ordinance; or

(b) Apply for a video service authorization as provided under section 67.2679 in lieu of any or all such franchises, franchise extensions, or expired franchises; or

(c) Automatically convert the franchise, franchise extension, or expired franchise in a political subdivision into a state-issued video service authorization, any time after a video service provider other than an incumbent cable operator obtains a video service authorization for such political subdivision, provided that notice of the automatic conversion to the public service commission and the affected political subdivision is made and upon compliance with the provisions of sections 67.2675 to 67.2714;

(2) The franchise, franchise extension, or expired franchise previously granted by the franchise entity will terminate upon issuance of a video service authorization to the video service provider. The terms of such video service authorization shall be as provided under the provisions of sections 67.2675 to 67.2714 and shall supersede the terms and conditions of the franchise, franchise extension, or expired franchise previously granted by the franchise entity.

10. At the time that any video service authorization is issued by the public service commission, the public service commission shall immediately make such issuance public by posting information on its website relating to the video service authorization, including specifically all political subdivisions covered by that authorization and the video service provider fee imposed.

67.2681. NO SEPARATE FRANCHISE TO BE REQUIRED BY A FRANCHISE ENTITY OR POLITICAL SUBDIVISION. — No franchise entity or other political subdivision of the state of Missouri except the public service commission shall either require a person holding a video service authorization to obtain a separate franchise to provide video service or otherwise impose any fee, license, gross receipt tax, or franchise requirement on the provision of any

video service, or request anything of value in exchange for providing video services except as provided in sections 67.1830 to 67.1846 or in sections 67.2689 and 67.2703. For purposes of this section, a franchise requirement includes, without limitation, any provision regulating rates charged by an entity holding a video service authorization or requiring such entity to satisfy any build-out requirements or deploy any facilities or equipment. Except with respect to the construction of a video service network, a certificate or franchise issued to a telecommunications company to construct and operate telecommunications facilities to provide telecommunications service in the public rights-of-way shall not constitute a video service authorization for purposes of sections 67.2675 to 67.2714.

67.2683. COMPLIANCE WITH FCC REQUIREMENTS FOR EMERGENCY MESSAGES. — A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators. A video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this section by December 31, 2007.

67.2685. EXPIRATION OF AUTHORIZATION, WHEN. — A video service authorization shall expire upon notice to the public service commission by the holder of a video service authorization that it will cease to provide video service under such authorization.

67.2687. NOTICE OF COMMENCEMENT OF SERVICE, WHEN. — An entity holding a video service authorization shall provide notice to each political subdivision with jurisdiction in any locality at least ten days before commencing video service in the political subdivision's jurisdiction.

67.2689. FEE AUTHORIZED, AMOUNT. — 1. A franchise entity may collect a video service provider fee equal to not more than five percent of the gross revenues from each video service provider providing video service in the geographic area of such franchise entity. The video service provider fee shall apply equally to all video service providers within the geographic area of a franchise entity.

2. Except as otherwise expressly provided in sections 67.2675 to 67.2714, neither a franchise entity nor any other political subdivision shall demand any additional fees, licenses, gross receipt taxes, or charges on the provision of video services by a video service provider and shall not demand the use of any other calculation method.

3. All video service providers providing service in the geographic area of a franchise entity shall pay the video service provider fee at the same percent of gross revenues as had been assessed on the incumbent cable operator by the franchise entity immediately prior to the date of enactment of sections 67.2675 to 67.2714, and such percentage shall continue to apply until the date that the incumbent cable operator's franchise existing at that time expires or would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714. The franchise entity shall notify the applicant for a video service authorization of the applicable gross revenue fee percentage within thirty days of the date notice of the applicant is provided.

4. Not more than once per calendar year after the date that the incumbent cable operator's franchise existing on the effective date of sections 67.2675 to 67.2714 expires or would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714, or in any political subdivision where no franchise applied on the date of enactment of sections 67.2675 to 67.2714, no more than once per calendar year after the video service provider fee was initially imposed, a franchise entity, may, upon ninety days notice to all video service providers, elect to adjust the amount of the video service provider fee subject

to state and federal law, but in no event shall such fee exceed five percent of a video service provider's gross revenue.

5. The video service provider fee shall be paid to each franchise entity requiring such fee on or before the last day of the month following the end of each calendar quarter and shall be calculated as a percentage of gross revenues, as defined under section 67.2677. Any payment made pursuant to subsection 8 of section 67.2703 shall be made at the same time as the payment of the video service provider fee.

6. Any video service provider may identify and collect the amount of the video service provider fee and collect any support under subsection 8 of section 67.2703 as separate line items on subscriber bills.

67.2691. AUDITS AUTHORIZED — AVAILABILITY OF RECORDS, EXPENSES — CAUSE OF ACTION FOR DISPUTES, PROCEDURE. — 1. A franchise entity shall have the authority to audit any video service provider, which provides video service to subscribers within the geographic area of the franchise entity, not more than once per calendar year.

2. A video service provider shall, upon request of the franchise entity conducting an audit, make available at the location where such records are kept in the normal course of business for inspection by the franchise entity all records pertaining to gross revenues received from the provision of video services provided to consumers located within the geographic area of the franchise entity.

3. Any expenses incurred by a franchise entity in conducting an audit of an entity holding a video service authorization shall be paid by the franchise entity.

4. Any suit with respect to a dispute arising out of or relating to the amount of the video service provider fee allegedly due to a franchise entity under section 67.2689 shall be filed by the franchise entity seeking to recover an additional amount alleged to be due, or by a video service provider seeking a refund of an alleged overpayment, in a court of competent jurisdiction within two years following the end of the quarter to which the disputed amount relates. Any payment that is not challenged by a franchise entity within two years after it is paid or remitted shall be deemed accepted in full payment by the franchise entity.

5. A franchise entity shall not employ, appoint, or retain any person or entity for compensation that is dependent in any manner upon the outcome of an audit of a holder of video service authorization, including, without limitation, the audit findings or the recovery of fees or other payment by the municipality or county. A person may not solicit or accept compensation dependent in any manner upon the outcome of any such audit, including, without limitation, the audit findings or the recovery of fees or other payment by the political subdivision or video service provider.

6. A video service provider shall not be required to retain financial records associated with the payment of the video service provider fee for longer than three years following the end of the quarter to which such payment relates, unless a franchise entity has commenced a dispute regarding such payment in accordance with this section.

67.2692. CUSTOMER SERVICE REQUIREMENTS — DEFINITIONS — INQUIRIES, PROCESS FOR HANDLING — TOLL-FREE NUMBER TO BE MAINTAINED — FILING OF COMPLAINTS. — 1. For purposes of this section, the following terms shall mean:

(1) "Normal business hours", those hours during which most similar businesses in the community are open to serve customers. In all cases the term normal business hours must include some evening hours at least one night per or some weekend hours;

(2) "Normal operating conditions" those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service

provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the video system;

(3) "Service interruption", the loss of picture or sound on one or more video channels;

2. Upon ninety days' notice, a franchise entity may require a video service provider to adopt the following customer service requirements:

(1) The video service provider will maintain a local, toll-free or collect call telephone access line which may be available to its subscribers twenty-four hours a day, seven days a week;

(2) The video service provider shall have trained company representatives available to respond to customer telephone inquiries during normal business hours;

(3) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day;

(4) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty seconds. These standards shall be met no less than ninety percent of the time under normal operating conditions, measured on a quarterly basis;

(5) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards provided under subdivisions (1) to (4) of this subsection, unless a historical record of complaints indicates a clear failure to comply;

(6) Under normal operating conditions, the customer will receive a busy signal less than three percent of the time;

(7) Customer service center and bill payment locations shall be open at least during normal business hours and shall be conveniently located;

(8) Under normal operating conditions, each of the following four standards shall be met no less than ninety-five percent of the time measured on a quarterly basis:

(a) Standard installations shall be performed within seven business days after an order has been placed. "Standard" installation are those that are located up to one hundred and twenty-five feet from the existing distribution system;

(b) Excluding conditions beyond the control of the operator, the video service provider shall begin working on "service interruptions" promptly and in no event later than twenty-four hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem;

(c) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer;

(d) A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment;

(e) If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer;

(9) Refund checks shall be issued promptly, but no later than either:

(a) The customer's next billing cycle following resolution of the request or thirty days, which ever is earlier; or

(b) The return of the equipment supplied by the video service provider if the service is terminated;

(10) Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

3. An agency of the state of Missouri shall not have the power to enact or adopt customer service requirements specifically applicable to the provision of video service.

4. A video service provider shall implement an informal process for handling inquiries from franchise entities and customers concerning billing issues, service issues, and other complaints. In the event an issue is not resolved through this informal process, a franchising entity may request a confidential nonbinding mediation with the video service provider, with the costs of such mediation to be shared equally between the franchising entity and the video service provider.

5. Each video service provider shall maintain a local or toll free telephone number for customer service contact.

6. (1) In the case of repeated, willful, and material violations of the provisions of this section by a video service provider, a franchise entity may file a complaint on behalf of a resident harmed by such violations with the administrative hearing commission seeking an order revoking the video service provider's franchise for that political subdivision. A franchise entity or a video service provider may appeal any determination made by the administrative hearing commission under this section to a court of competent jurisdiction, which shall have the power to review the decision de novo.

(2) No franchise entity shall file a complaint seeking revocation unless the video service provider has been given sixty days notice by the franchise entity to cure alleged breaches, but has failed to do so.

67.2693. REPORT TO BE ISSUED BY THE PUBLIC SERVICE COMMISSION, CONTENTS. — The public service commission shall, no later than August 28, 2008, and annually thereafter for the next three years, issue a report regarding developments resulting from the implementation of sections 67.2675 to 67.2714 and shall make such recommendations to the general assembly as it deems appropriate to benefit consumers. The commission shall conduct proceedings as it deems appropriate to prepare its report, including receiving comments from members of the public.

67.2694. CONFIDENTIALITY OF SUBSCRIBER INFORMATION. — Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.

67.2695. IMMUNITY OF POLITICAL SUBDIVISIONS, WHEN — INDEMNIFICATION, WHEN — EXCEPTIONS. — 1. An entity holding a video service authorization shall, at its sole cost and expense, indemnify, hold harmless, and defend a political subdivision, its officials, boards, board members, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of:

(1) The construction, maintenance, or operation of its video service network;

(2) Copyright infringements or a failure by an entity holding a video service authorization to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the video service network.

2. Any indemnification provided in subsection 1 of this section shall include, but not be limited to, the political subdivision's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding prior to the entity holding the video service authorization assuming such defense. The political subdivision shall notify the entity holding the video service authorization of claims and suits within seven business days of its actual knowledge of the existence of such claim, suit, or proceeding. Failure to provide such notice shall relieve the entity holding the video service authorization of its obligations under this section. Once the entity holding the video service authorization assumes the defense of any such action, the political subdivision may, at its option, continue to participate in the defense at its own expense.

3. The obligation to indemnify, hold harmless, and defend contained in subsections 1 and 2 of this section shall not apply to any claim, suit, or cause of action related to the provision of public, educational, and governmental channels or programming or to emergency interrupt service announcements.

67.2701. TRANSFERABILITY OF AUTHORIZATIONS, PROCEDURE. — A video service authorization is fully transferable, with respect to one or more political subdivisions covered by such authorization, to any successor-in-interest to the holder whether such successor-in-interest arises through merger, sale, assignment, restructuring, change of control, or any other type of transaction. A notice of transfer shall be promptly filed with the public service commission and the affected political subdivisions upon completion of such transfer, but neither the public service commission nor any political subdivision shall have any authority to review or require approval of any transfer of a video service authorization, regardless of whether the transfer arises through merger, sale, assignment, restructuring, change of control, or any other type of transaction.

67.2703. DESIGNATION OF NONCOMMERCIAL CHANNELS AUTHORIZED, WHEN — PEG CHANNELS, REQUIREMENTS. — 1. A franchise entity may require a video service provider providing video service in such franchise entity to designate up to three channels for noncommercial public, educational, or governmental "PEG" use if such franchise entity has a population of at least fifty thousand, and up to two PEG channels if such franchise entity has a population of less than fifty thousand; provided, however, that a PEG Channel that is shared among multiple political subdivisions served by a common headend on the effective date may continue to be shared among those political subdivisions served by that headend. Such limits shall constitute the total number of PEG channels that may be designated on all video service networks that share a common headend, regardless of the number of franchise entities or other political subdivisions served by such headend. The video service provider may provide such channels on any service tier that is purchased by more than fifty percent of its customers. All video service providers serving a political subdivision shall be required to provide the same number of PEG access channels as the incumbent video service provider existing on the date of enactment of sections 67.2675 to 67.2714.

2. Notwithstanding any franchise or ordinance granted by a franchise entity prior to the date of enactment of sections 67.2675 to 67.2714, this section, rather than the franchise or ordinance, shall apply to the designation of PEG access channels by an incumbent cable operator operating under such franchise or ordinance; provided, however, that if such franchise or ordinance requires more PEG access channels than the applicable limit specified in subsection 1 of this section, the requirement in the franchise or ordinance shall apply in lieu of such limit; provided further, that the incumbent cable operator may nonetheless be required to activate additional PEG channel or channels, up to such limit, to the extent the political subdivision certifies that such additional channel or channels will be substantially utilized, as defined in subsection 4 of this section.

3. Any PEG channel designated pursuant to this section that is not substantially utilized, as defined in subsection 4 of this section, by the franchise entity shall no longer be made available to the franchise entity, but may be programmed at the video service provider's discretion. At such time as the governing body of a franchising entity makes a finding and certifies that a channel that has been reclaimed by a video service provider under this subsection will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred and twenty days, but shall be under no obligation to carry that channel on any specific tier.

4. For purposes of this section, a PEG channel shall be considered "substantially utilized" when forty hours per week are locally programmed on that channel for at least three consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four times during a calendar week.

5. Except as provided in this section, a franchise entity or political subdivision may not require a video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity. The operation of any PEG access channel provided pursuant to this section and the production of any programming that appears on each such channel shall be the sole responsibility of the franchise entity or its duly appointed agent receiving the benefit of such channel, and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers.

6. The franchise entity must ensure that all transmissions of content and programming provided by or arranged by it to be transmitted over a PEG channel by a video service provider are delivered and submitted to the video service provider in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal, and which is compatible with the technology or protocol utilized by the video service provider to deliver its video services.

7. The franchise entity shall make the programming of any PEG access channel available to all video service providers in such franchise entity in a nondiscriminatory manner. Each video service provider shall be responsible for providing the connectivity to the franchise entity's or its duly appointed agent's PEG access channel distribution points existing as of effective date of enactment of sections 67.2675 to 67.2714. Where technically necessary and feasible, video service providers in the same franchise entity shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms, and conditions for the purpose of transmitting PEG programming within such franchise entity. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one point per headend, regardless of the number of franchise entities or other political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection acceptable to the person providing the interconnect.

8. (1) The obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities contained in a franchise existing on the effective date of sections 67.2675 to 67.2714 shall continue until the term of the franchise would have expired if it had not been terminated pursuant to sections 67.2675 to 67.2714 or until January 1, 2012, whichever is earlier.

(2) Each video service provider providing video service in a political subdivision shall have the same obligation to support PEG access facilities as the incumbent cable operator with the most subscribers in such political subdivision as of the date of enactment of sections 67.2675 to 67.2714. To the extent such incumbent cable operator provides such support in the form of a percentage of gross revenue or a per subscriber fee, any other

video service provider shall pay the same percentage of gross revenue or per subscriber fee as the incumbent cable operator. To the extent the incumbent cable operator provides such support in the form of a lump sum payment without an offset to its gross receipts fee, any other video service provider shall be responsible for a pro rata share of such payment made by the incumbent cable operator after the date on which the other video service provider commences service in a particular political subdivision, based on its proportion of video service customers in such political subdivision. To the extent the incumbent cable operator provides such support on an in-kind basis after the date on which the other video service provider commences service in a particular political subdivision, any other video service provider shall pay the political subdivision a sum equal to the pro rata amount of the fair market value of such support based on its proportion of video service customers in such political subdivision.

(3) For purposes of this section, the proportion of video service customers of a video service provider shall be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations. A franchising entity acting under this subsection shall notify a video service provider of the amount of such fee on an annual basis, beginning one year after issuance of the video service authorization.

9. Neither the public service commission nor any political subdivision may require a video service provider to provide any institutional network or equivalent capacity on its video service network. The obligation of an incumbent cable operator to provide such network or capacity contained in a franchise existing on the effective date of sections 67.2675 to 67.2714 shall continue until the term of the franchise would have expired had it not been terminated pursuant to sections 67.2676 to 67.2714, or until January 1, 2009, whichever is earlier, and shall be limited to providing the network as is on the effective date of sections 67.2675 to 67.2714.

67.2705. DISCRIMINATION PROHIBITED — DEFENSE TO ALLEGED VIOLATION — ANNUAL REPORT REQUIRED — WAIVER PERMITTED, WHEN. — 1. A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the local area in which the group resides.

2. It is a defense to an alleged violation of subsection 1 of this section if the video service provider has met either of the following conditions:

(1) Within three years of the date it began providing video service under the provisions of sections 67.2675 to 67.2714, at least twenty-five percent of the households with access to the provider's video service are low-income households; or

(2) Within five years of the date it began providing video service under the provisions of sections 67.2675 to 67.2714 at least thirty percent of the households with access to the provider's video service are low-income households.

3. If a video service provider is using telecommunication facilities to provide video service and has more than one million telecommunication access lines in this state, the provider shall provide access to its video service to a number of households equal to at least twenty-five percent of the households in the provider's telecommunications service area in the state within three years of the date it began providing video service pursuant to authorization under sections 67.2675 to 67.2714 and to not less than fifty percent of such households within six years. A video service provider is not required to meet the fifty percent requirement provided in this subsection until two years after at least thirty percent of the households with access to the provider's video service subscribe to the service for six consecutive months.

4. Each provider described in subsection 3 of this section shall file an annual report with the franchising entities in which each provider provides service and the public service commission regarding the progress that has been made toward compliance with the provisions of subsection 3 of this section.

5. Except for satellite service, a video service provider may satisfy the requirements of this section through the use of alternate technology that offers service, functionality, and content which is demonstrably similar to that provided through the provider's video service network and may include a technology that does not require the use of any public right-of-way. The technology utilized to comply with the requirements of this section shall include local public, education, and government channels as required under section 67.2703 and messages over the emergency alert system as required under section 67.2683.

6. A video service provider may apply to the public service commission for a waiver of or an extension of time to meet the requirements of this section if one or more of the following apply:

(1) The inability to obtain access to public and private rights-of-way under reasonable terms and conditions;

(2) Developments or buildings not being subject to competition because of existing exclusive service arrangements;

(3) Developments or buildings being inaccessible using reasonable technical solutions under commercially reasonable terms and conditions;

(4) Natural disasters; or

(5) Factors beyond the control of the video service provider.

7. The public service commission may grant the waiver or extension only if the provider has made substantial and continuous effort to meet the requirements of this section. If an extension is granted, the public service commission shall establish a new compliance deadline. If a waiver is granted, the public service commission shall specify the requirement or requirements waived.

8. Notwithstanding any other provision of sections 67.2675 to 67.2714, a video service provider using telephone facilities to provide video service shall not be obligated to provide such service outside the provider's existing telephone exchange boundaries.

9. Except as otherwise provided in sections 67.2675 to 67.2714, a video service provider shall not be required to comply with, and a franchising entity may not impose or enforce, any mandatory build-out or deployment provisions, schedules, or requirements except as required by this section.

10. Any franchising entity in which a video service provider operates may file a complaint in a court of competent jurisdiction alleging a violation of subsection 1 or 3 of this section. The court shall act on such complaint in accordance with section 67.2711.

67.2707. REGULATION OF PROVIDERS — POLITICAL SUBDIVISIONS PROHIBITED FROM IMPOSING CERTAIN REGULATIONS. — 1. A video service provider shall be subject to the provisions of sections 67.1830 to 67.1846 and chapter 229, RSMo, and shall also be subject to the provisions of section 227.240, RSMo, applying to cable television companies, and to all reasonable police power-based regulations of a political subdivision regarding the placement, screening, and relocation of facilities, including, but not limited to:

(1) Requirements that the video service provider provide landscaping to screen the placement of cabinets or structures from public view consistent with the location chosen;

(2) Requirements that the video service provider contact the nearby property owners to communicate what work will be done and when;

(3) Requiring alternate placement of facilities, or prescribing the time, method, and manner of such placement, when it is necessary to protect the public right-of-way or the safety of the public, notwithstanding the provisions of sections 67.1830 to 67.1846;

(4) Requirements that cabinets be removed or relocated at the expense of the video service provider when necessary to accommodate construction, improvement, or maintenance of streets or other public works, excluding minor beautification projects.

2. A political subdivision may not impose the following regulations on video service providers:

(1) Requirements that particular business offices or portions of a video service network be located in the political subdivision;

(2) Requirements for political subdivision approval of transfers of ownership or control of the business or assets of a video service provider's business, except that a political subdivision may require that such entity maintain current point of contact information and provide notice of a transfer within a reasonable time; and

(3) Requirements concerning the provisioning of or quality of customer services, facilities, equipment or goods in-kind for use by the political subdivision or any other video service provider or public utility.

67.2709. NATIONAL ELECTRIC SAFETY CODE, COMPLIANCE WITH REQUIRED. — Every holder of a video service authorization shall, with respect to its construction practices and installation of equipment, comply with all applicable sections of the National Electric Safety Code.

67.2711. NONCOMPLIANCE, EFFECT OF. — In the event a video service provider is found by a court of competent jurisdiction to be in noncompliance with the requirements of sections 67.2675 to 67.2714, the court shall issue an order to the video service provider directing a cure for such noncompliance within a specified reasonable period of time. If the video service provider meets the requirements of the provisions of sections 67.2675 to 67.2714 within the court ordered period of time, the court shall dismiss the claim of noncompliance.

67.2714. EFFECTIVE DATE. — Sections 67.2675 to 67.2714 shall apply to any franchise in effect on the effective date of sections 67.2675 to 67.2714, to the extent specifically provided in sections 67.2675 to 67.2714.

Approved March 22, 2007

SB 288 [HCS SCS SB 288, SB 152 & SCS SB 115]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey certain state properties

AN ACT to authorize the conveyance of certain state properties, with an emergency clause.

SECTION

1. Conveyance of the Midtown State Office Building in St. Louis.
2. Conveyance of property located in Park Hills, St. Francois County.
3. Conveyance of property located in Cabool, Texas County.
4. Conveyance of property located in Joplin, Newton County.
5. Conveyance of property located in Springfield, Greene County.
6. Conveyance of property located in Chillicothe, Livingston County.
7. Conveyance of property located in Pettis County to the Girl Scouts.

A. Emergency clause.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. CONVEYANCE OF THE MIDTOWN STATE OFFICE BUILDING IN ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property

known as Midtown State Office Building, St. Louis, Missouri, more particularly described as follows:

"PARCEL No. 1" IN CITY BLOCK 1059
ST. LOUIS, MISSOURI

A parcel of ground in Block 1059, of the City of St. Louis, Missouri, including all of Lots A, B & C, and part of Lots 8, 7, 6, 5 & 4; said parcel being more particularly described as follows:

COMMENCING at the point of intersection of the south line of Olive Street, 60 feet wide, with the east line of Grand Boulevard, 80 feet wide; Thence South 60 degrees 30 minutes West 160.00 feet, along the south line of said Olive Street, to the west line of said Lot C, and being the point of BEGINNING of the parcel herein described; Thence South 60 degrees 30 minutes East 159.84 feet, along the south line of said Olive Street, to an angle point therein; Thence South 60 degrees 38 minutes 07 seconds East 221.23 feet, along the south line of said Olive Street, to a line distant 18.00 feet east of and parallel with the west line of said Lot 4; Thence South 29 degrees 21 minutes 53 seconds West 88.25 feet, along said line parallel with the west line of said Lot 4, to the centerline of the former Alley, 10 feet wide, in said Block, Vacated by Ordinance 64807; Thence North 68 degrees 12 minutes 09 seconds West 86.98 feet, along the centerline of said former Alley; Thence South 16 degrees 14 minutes 50 seconds West 57.10 feet, to the north line of Lindell Boulevard, 100 feet wide; Thence North 75 degrees 00 minutes 25 seconds West 56.21 feet, along the north line of said Lindell Boulevard, to an angle point therein; Thence North 76 degrees 17 minutes 40 seconds West 233.92 feet, along the north line of said Lindell Boulevard, to a point distant South 76 degrees 17 minutes 40 seconds East 186.17 feet, from its intersection with the east line of said Grand Boulevard; Thence North 14 degrees 59 minutes 20 seconds East 72.53 feet, to the south line of the former Alley, 15 feet wide, in said Block, Vacated by Ordinance 58135; Thence North 5 degrees 00 minutes 21 seconds West 18.20 feet, to the point of intersection of the north line the last said Vacated Alley, with the west line of the aforesaid Lot C; Thence North 29 degrees 25 minutes 40 seconds East 147.50 feet, along the west line of said Lot, C to the south line of said Olive Street and the point of beginning and containing 65,683 Square Feet or 1.5079 Acres.

"PARCEL No. 2" IN CITY BLOCK 1060
ST. LOUIS, MISSOURI

A parcel of ground in Block 1060, of the City of St. Louis, Missouri, being all of Lots 1 through 7 inclusive; said parcel being more particularly described as follows: BEGINNING at the point of Intersection of the north line of Olive Street, 60 feet wide, with the west line of Theresa Avenue, 60 feet wide; Thence North 60 degrees 38 minutes 07 seconds West 396.39 feet, along the north line of said Olive Street, to the west line of said Lot 7; Thence North 29 degrees 19 minutes East 156.76 feet, along the west line of said Lot 7, to the south line of an Alley, 15 feet wide, in said Block; Thence South 75 degrees 00 minutes 54 seconds East 346.18 feet, along the south line of said Alley, to the west line of said Theresa Avenue; Thence South 15 degrees 13 minutes 06 seconds West 250.33 feet, along the west line of said Theresa Avenue; to the north line of said Olive Street and being the point of beginning and containing 74,400 Square Feet, or 1.7080 Acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY LOCATED IN PARK HILLS ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property located in Park Hills, St. Francois County, more particularly described as follows:

All of that part of Block 4 of Doe Run Lead Company's Subdivision of the Town of Flat River, in St. Francois County, Missouri, as recorded in Book 5 at Pages 6 and 7. Begin at the Southeast corner of Lot 13, Block 4 of said Subdivision; thence South 52 degrees 58 minutes West, 135 feet on the North line of Coffman Street to the point of beginning of the tract herein described; thence continue South 52 degrees 58 minutes West, 125 feet on the North line of Coffman Street; thence North 37 degrees 2 minutes West, 140 feet; thence North 52 degrees 58 minutes East, 125 feet; thence South 37 degrees 2 minutes East, 140 feet to the point of beginning. The above described tract includes a part of Lots 14, 15 and 16 of Block 4 of said Subdivision and a part of an abandoned railroad right-of-way.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY LOCATED IN CABOOL, TEXAS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Cabool, Texas County, more particularly described as follows:

All of that part of a Tract of land located in the Southeast Quarter of the Southeast Quarter of Section 12, Township 28 North, Range 11 West, Texas County, Missouri, more particularly described as follows:

COMMENCING at an existing 5/8" Iron Pin at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 12, Township 28 North, Range 11 West, Texas County, Missouri; thence North 00 Degrees 24 Minutes 28 Seconds East along the West line of said Quarter Quarter, a distance of 1325.38 feet to the Northwest corner thereof; thence South 88 Degrees 48 minutes 49 Seconds East along the North line of said Quarter Quarter, a distance of 44.92 feet to a point; thence South 00 Degrees 24 minutes 19 seconds West, a distance of 636.20 feet to a point; thence South 88 Degrees 52 minutes 30 Seconds East, a distance of 5.05 feet; thence continuing South 88 Degrees 52 minutes 30 Seconds East, a distance of 734.24 feet to the POINT OF BEGINNING; thence North 11 Degrees 00 minutes 28 Seconds East, a distance of 395.81 feet to a point; thence North 11 Degrees 00 Minutes 28 Seconds East, a distance of 395.81 feet to a point; thence North 50 Degrees 01 Minutes 04 Seconds East, a distance of 239.93 feet to a point of intersection with the centerline of the old Cabool-Willow Springs Road; thence South 39 Degrees 39 Minutes 35 Seconds East along said centerline, a distance of 107.92 feet to a point; thence departing said centerline South 61 Degrees 28 minutes 55 Seconds West, a distance of 215.25 feet to a point; thence South 04 Degrees 00 Minutes 19 Seconds East, a distance of 329.20 feet to a point; thence South 21 Degrees 32 Minutes 32 Seconds East, a distance of 34.27 feet to a point; thence North 88 Degrees 52 minutes 30 Seconds West, a distance of 174.78 feet to the POINT OF BEGINNING and containing 62,476 square feet or 1.434 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. CONVEYANCE OF PROPERTY LOCATED IN JOPLIN, NEWTON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Joplin, Newton County, more particularly described as follows:

Tract "A" Description:

Commencing at a found monument at the Northwest corner of the Northeast Quarter of Section 21, Township 27 North, Range 33 West in the City of Joplin, Newton County, Missouri; Thence S01°42'35"W along the West line of said Quarter Section a distance of 50.01 feet to the South Line of 32nd Street; Thence S89°36'28"E along said line parallel with the North Line of said Section 21, a distance of 534.01 feet to the Northwest Corner of the Additional 100 foot wide Missouri National Guard Armory Tract and the point of beginning. Thence S89°36'28"E along the South Line of 32nd Street 50.00 Feet; Thence on a deed bearing of S00°41'30"W 500.00 feet; Thence N89°36'28"W 50.00 Feet to the Southwest Corner of the additional 100 foot wide Missouri National Guard Armory tract; Thence along the West line of Said tract on a Deed bearing of N00°41'30"E 500.00 feet to the point of beginning. Excepting any portion lying within any additional road right-of-way for 32nd Street on the North Side thereof. Containing 0.57 acre (24,979 square feet) more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. CONVEYANCE OF PROPERTY LOCATED IN SPRINGFIELD, GREENE COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Springfield, Greene County, more particularly described as follows:

Beginning on the South side of St. Louis Street at a point fifty (50) feet west of the Northwest corner of a lot known at one time as the W. J. McDaniel Lot, which point is now the Northwest corner of the Simmons Lot (formerly the A. J. Clements lot), thence West along the South side of St. Louis Street fifty (50) feet to Bryan's Northeast corner, thence South to South alley now McDaniel Street, thence East fifty (50) feet to the Southwest corner of the lot formerly belonging to said Clements, thence North to the beginning, all in the City of Springfield, Missouri. Also described as Beginning 50 feet West of the Northwest corner of Lot 1, Kimbroughs Addition, West 50 feet, thence South 222 feet to McDaniel Street, East 50 feet, North to the beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. CONVEYANCE OF PROPERTY LOCATED IN CHILLICOTHE, LIVINGSTON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the City of Chillicothe all interest of the state of Missouri in real property located in Chillicothe, Livingston County, more particularly described as follows:

DESCRIPTION OF TRACT #1

A tract of land being part of the East 770 feet of Lot 1 of Weston Heights Addition to Chillicothe and part of Block 3 of Bruce's Subdivision to the City of

Chillicothe, all being in the Southeast Quarter of Section 35, Township 58 North, Range 24 West of the fifth principal meridian, Livingston County, Missouri, being more particularly described as follows:

Commencing at an iron pin marking the Southeast corner of said Section 35; thence North 00 degrees 01 minutes 02 seconds East, a distance of 29.81 feet to the North line of Third Street; thence along said North line, South 88 degrees 35 minutes 04 seconds West, a distance of 659.70 feet to an iron pin and the POINT OF BEGINNING; thence continuing South 88 degrees 35 minutes 04 Seconds West, a distance of 769.71 feet to an iron pin on the East line of Woodrow Avenue; thence along said East line, North 00 degrees 06 minutes 17 seconds West, a distance of 671.34 feet to an iron pin marking the Southwest corner of the Penniston School tract; thence along the South line of said School tract, North 88 degrees 48 minutes 28 seconds East, a distance of 384.94 feet to an iron pin marking the Southeast corner of said School Tract; thence North 00 degrees 06 minutes 28 seconds West, a distance of 339.73 feet to an iron pin on the South right of way of Clay Street marking the Northeast corner of said School Tract; thence along the South line of Clay Street North 88 degrees 36 minutes 41 seconds East, a distance of 385.06 feet to an iron pin; thence leaving said right of way along the West line of John Grave's Western Addition to Chillicothe, South 00 degrees 05 minutes 15 seconds East, a distance of 858.71 feet to an iron pin; thence North 89 degrees 58 minutes 03 seconds East, a distance of 180.28 feet to an iron pin on the East line of Lot 5, Block 3 of Bruces' Subdivision of Blocks 17 and 18 of Graves Western Addition to the City of Chillicothe; thence South 00 degrees 08 minutes 25 seconds West, a distance of 146.35 feet to an iron pin on the North line of Third Street and the Southeast Corner of said Lot 5; thence South 88 degrees 35 minutes 04 seconds West, a distance of 179.74 feet to the POINT OF BEGINNING, containing 15.46 acres, more or less.

DESCRIPTION OF TRACT #2

A tract of land lying in the Northeast Quarter of Section 2, Township 57 North, Range 24 West of the fifth principal meridian, City of Chillicothe, Livingston County, Missouri, being more particularly described as follows:

Commencing at an iron pin marking the Northeast corner of said Section 2; thence along the East line of said Section 2, South 00 degrees 00 minutes 58 seconds West, a distance of 30.21 feet to an iron pin on the South right of way line of Third Street and the POINT OF BEGINNING; thence continuing South 00 degrees 00 minutes 58 seconds West, a distance of 1591.66 feet to an iron pin on the Northerly right of way of the former Norfolk Southern Railroad; thence along said right of way, along the arc of a curve to the right, having a radius of 1382.69 feet for a distance of 242.48 feet (chord bearing N89°56'35"W - 242.17') to an iron pin; thence North 84 degrees 55 minutes 09 seconds West, a distance of 1021.59 feet to an iron pin on the Quarter-Quarter Section line; thence along said Quarter - Quarter line, North 00 degrees 01 minutes 27 seconds West, a distance of 164.31 feet to an iron pin; thence North 89 degrees 58 minutes 33 seconds East, a distance of 20.00 feet to an iron pin on the East line of Woodrow Street; thence along said East line, North 00 degrees 01 minutes 27 seconds West, a distance of 1305.97 feet to an iron pin on the South right of way line of Third Street; thence North 88 degrees 35 minutes 04 seconds East, a distance of 1241.20 feet to the POINT OF BEGINNING, containing 43.96 acres, more or less.

DESCRIPTION OF TRACT #3

A tract of land lying in the Northeast Quarter of Section 2, Township 57 North, Range 24 West of the fifth principal meridian, City of Chillicothe, Livingston County, Missouri, being more particularly described as follows:

Commencing at an iron pin marking the Northeast corner of said Section 2; thence along the East line of said Section 2, South 00 degrees 00 minutes 58 seconds West, a distance of 1621.87 feet to an iron pin on the Northerly right of way of the former Norfolk Southern Right of way and the POINT OF BEGINNING; thence continuing South 00 degrees 00 minutes 58 seconds West, a distance of 50.18 feet to an iron pin at the centerline of said Norfolk Southern right of way; thence along said centerline, along the arc of a curve to the right, having a radius of 1432.69 feet for a distance 246.89 feet (chord bearing N89°51'21"W246.58') to an iron pin; thence North 84 degrees 55 minutes 09 seconds West, a distance 1017.13 feet to an iron pin on the Quarter-Quarter Section line; thence North 00 degrees 01 minutes 27 seconds West, a distance of 50.20 feet to an iron pin on said Northerly right of way; thence along said right of way, South 84 degrees 55 minutes 09 seconds East, a distance of 1021.59 feet to an iron pin; thence along a curve to the left, having a radius of 1382.69 feet for a distance of 242.48 feet (chord bearing S89°56'35"E - 242.17') to the POINT OF BEGINNING, containing 1.45 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. CONVEYANCE OF PROPERTY LOCATED IN PETTIS COUNTY TO THE GIRL SCOUTS. — 1. The governor is hereby authorized to remit, release, and forever quitclaim any and all interest in property owned by the state in Pettis County to the Girl Scouts - Heart of Missouri Council, Inc. The property to be conveyed is more particularly described as follows:

The North Half of the Northwest Quarter of the Northeast Quarter of Section Number Nineteen (19), also that part of the Northeast Quarter of the Northeast Quarter of Section Number Nineteen (19) lying North and West of the Sedalia and Warsaw Public Road, all in Township Number Forty Five (45) North of Range Number Twenty One (21) West of the Fifth Principal Meridian, containing twelve and eight tenths acres of land more or less.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, sections 1 to 6 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 1 to 6 of this act shall be in full force and effect upon its passage and approval.

SECTION B. EMERGENCY CLAUSE — Because immediate action is necessary to permit the Girl Scouts to obtain financing for improvements on the property to be conveyed, section 7 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 7 of this act shall be in full force and effect upon its passage and approval.

Approved May 18, 2007

SB 298 [SB 298]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the election process of hospital district directors in Iron County

AN ACT to repeal section 206.090, RSMo, and to enact in lieu thereof one new section relating to hospital districts.

SECTION
A. Enacting clause.
206.090. Election districts — election of directors — terms, qualifications, vacancies, declaration of candidacy — no election, when — abolishing election districts, procedure — election of directors at large.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 206.090, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 206.090, to read as follows:

206.090. ELECTION DISTRICTS — ELECTION OF DIRECTORS — TERMS, QUALIFICATIONS, VACANCIES, DECLARATION OF CANDIDACY — NO ELECTION, WHEN — ABOLISHING ELECTION DISTRICTS, PROCEDURE — ELECTION OF DIRECTORS AT LARGE. — 1. After the hospital district has been declared organized, the declaring county commission shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the hospital district within ninety days after the order establishing the hospital district to elect hospital district directors. Each voter shall vote for six directors, one from each district**, except in any county of the third classification without a township form of government and with more than ten thousand six hundred but fewer than ten thousand seven hundred inhabitants, each voter shall vote for one director from the hospital election district in which the voter resides**. Directors shall serve a term of six years or a lesser term of years as may be established by the county commission. If directors are to serve a term of six years, the initial term of the director elected from district number one shall serve a term of one year, the director elected from district number two shall serve a term of two years, the director elected from district number three shall serve a term of three years, the director elected from district number four shall serve a term of four years, the director elected from district number five shall serve a term of five years, and the director elected from district number six shall serve a term of six years; thereafter, the terms of all directors shall be six years. If the county commission chooses to establish a term of office of less than six years, the initial election of directors shall be done in a manner established by the county commission. All directors shall serve until their successors are elected and qualified. Any vacancy shall be filled by the remaining members of the board of directors who shall appoint a person to serve as director until the next municipal election.

2. Candidates for director of the hospital district shall be citizens of the United States, voters of the hospital district who have resided within the state for one year next preceding the election and who are at least thirty years of age. All candidates shall file their declaration of candidacy with the county commission calling the election for the organizational election, and for subsequent elections, with the secretary of the board of directors of the district.

3. Notwithstanding any other provisions of law, if the number of candidates for office of director is no greater than the number of directors to be elected, no election shall be held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected.

4. Notwithstanding the provisions of subsections 1 to 3 of this section, after the formation of the hospital district, the hospital board of directors, by a majority vote of the directors with the consent of a majority of the county commission on an order of record, may abolish the six hospital districts' election districts and cause the hospital district directors to be elected from the hospital district at large. Upon opting to elect the hospital district directors at large, the then serving hospital district directors shall continue to serve the remainder of their terms and any vacancies on the board, after the date of such option, shall be filled by an election conducted at large in the district.

Approved May 31, 2007

SB 299 [CCS HCS SCS SB 299 & SS SCS SB 616]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the expiration date for certain provisions allowing for the issuance of special permits by the Supervisor of Alcohol and Tobacco Control to resorts

AN ACT to repeal sections 311.070, 311.174, 311.178, 311.180, 311.190, 311.240, 311.275, 311.420, and 311.462, RSMo, and to enact in lieu thereof fourteen new sections relating to liquor control, with penalty provisions.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 311.070, 311.174, 311.178, 311.180, 311.190, 311.240, 311.275, 311.420, and 311.462, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 311.015, 311.070, 311.071, 311.174, 311.178, 311.180, 311.185, 311.190, 311.240, 311.275, 311.297, 311.420, 311.462, and 311.685, to read as follows:

311.015. PURPOSE CLAUSE. — Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this chapter establish vital state regulation of the sale and distribution of alcohol beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed alcohol producers, importers, distributors, and retailers.

311.070. FINANCIAL INTEREST IN RETAIL BUSINESSES BY CERTAIN LICENSEES PROHIBITED, EXCEPTIONS — PENALTIES — DEFINITIONS — ACTIVITIES PERMITTED BETWEEN WHOLESALERS AND LICENSEES — CERTAIN CONTRACTS UNENFORCEABLE — CONTRIBUTIONS TO CERTAIN ORGANIZATIONS PERMITTED, WHEN — SALE OF MISSOURI WINES ONLY, LICENSE ISSUED, WHEN. — 1. Distillers, wholesalers, winemakers, brewers or their employees, officers or agents shall not, except as provided in this section, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

2. Any distiller, wholesaler, winemaker or brewer who shall violate the provisions of subsection 1 of this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:

(1) For the first offense, by a fine of one thousand dollars;

(2) For a second offense, by a fine of five thousand dollars; and

(3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such person shall be revoked.

3. As used in this section, the following terms mean:

(1) "Consumer advertising specialties", advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

(2) "Equipment and supplies", glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

(3) "**Permanent** point-of-sale advertising materials", advertising items designed to be used within a retail business establishment **for an extended period of time** to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials **shall only** include**[**, but are not limited to: posters, placards, designs,**]** inside signs (electric, mechanical or otherwise), **[**window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars and alcoholic beverage lists or menus**] mirrors, and sweepstakes/contest prizes displayed on the licensed premises**;

(4) "Product display", wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;

(5) "Promotion", an advertising and publicity campaign to further the acceptance and sale of the merchandise or products of a distiller, wholesaler, winemaker or brewer**;**

(6) "Temporary point-of-sale advertising materials", advertising items designed to be used for short periods of time. Such materials include, but are not limited to: banners, decorations reflecting a particular season or a limited-time promotion, or paper napkins, coasters, cups, or menus.

4. Notwithstanding other provisions contained herein, the distiller, wholesaler, winemaker or brewer, or their employees, officers or agents may engage in the following activities with a retail licensee licensed pursuant to this chapter or chapter 312, RSMo:

(1) The distiller, wholesaler, winemaker or brewer may give or sell product displays to a retail business if all of the following requirements are met:

(a) The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet. There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded;

(b) All product displays shall bear in a conspicuous manner substantial advertising matter on the product or the name of the distiller, wholesaler, winemaker or brewer. The name and address of the retail business may appear on the product displays; and

(c) The giving or selling of product displays may be conditioned on the purchase of intoxicating beverages advertised on the displays by the retail business in a quantity necessary for the initial completion of the product display. No other condition shall be imposed by the distiller, wholesaler, winemaker or brewer on the retail business in order for such retail business to obtain the product display;

(2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler, winemaker or brewer may **provide,** give or sell any **permanent** point-of-sale advertising materials**, temporary point-of-sale advertising materials,** and consumer advertising specialties to a retail business if all the following requirements are met:

(a) The total value of all **permanent** point-of-sale advertising materials **[**and consumer advertising specialties given or sold**] provided** to a retail business **by a distiller, wholesaler, winemaker, or brewer** shall not exceed five hundred dollars per **calendar** year, per brand, per retail outlet. The value of **permanent** point-of-sale advertising materials **[**and consumer advertising specialties**]** is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such item. Transportation and installation costs shall be excluded**. All permanent point-of-sale advertising materials provided to a retailer shall be recorded, and records shall be maintained for a period of three years**;

(b) **The provider of permanent point-of-sale advertising materials shall own and otherwise control the use of permanent point-of-sale advertising materials that are provided by any distiller, wholesaler, winemaker, or brewer;**

(c) All **permanent** point-of-sale advertising materials**, temporary point-of-sale advertising materials,** and consumer advertising specialties shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer. The name, address and logos of the retail business may appear on the **permanent** point-of-sale advertising materials**, temporary point-of-sale advertising materials,** or the consumer advertising specialties; and

[(c)**] (d)** The distiller, wholesaler, winemaker or brewer shall not directly or indirectly pay or credit the retail business for using or distributing the **permanent** point-of-sale advertising materials**, temporary point-of-sale advertising materials,** or consumer advertising specialties or for any incidental expenses arising from their use or distribution;

(3) A **[**malt beverage wholesaler or brewer**]** **distiller, wholesaler, winemaker, or brewer** may give a gift not to exceed a value of one thousand dollars per year**[**, or sell something of value**]** to a holder of a temporary permit as defined in section 311.482;

(4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a retail business if all the following requirements are met:

(a) The equipment and supplies shall be sold at a price not less than the cost to the distiller, wholesaler, winemaker or brewer who initially purchased such equipment and supplies; and

(b) The price charged for the equipment and supplies shall be collected in accordance with credit regulations as established in the code of state regulations;

(5) The distiller, wholesaler, winemaker or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of intoxicating and nonintoxicating beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one year;

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

(7) A wholesaler of intoxicating liquor may furnish or give and a retailer may accept a sample of distilled spirits or wine as long as the retailer has not previously purchased the brand from that wholesaler, if all the following requirements are met:

(a) The wholesaler may furnish or give not more than seven hundred fifty milliliters of any brand of distilled spirits and not more than seven hundred fifty milliliters of any brand of wine; if a particular product is not available in a size within the quantity limitations of this subsection, a wholesaler may furnish or give to a retailer the next larger size;

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

(c) For the purposes of this subsection, no samples of intoxicating liquor provided to retailers shall be consumed on the premises nor shall any sample of intoxicating liquor be opened on the premises of the retailer except as provided by the retail license;

(d) For the purpose of this subsection, the word "brand" refers to differences in brand name of product or differences in nature of product; examples of different brands would be products having a difference in: brand name; class, type or kind designation; appellation of origin (wine); viticulture area (wine); vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences in packaging such a different style, type, size of container, or differences in color or design of a label are not considered different brands;

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

(9) The distiller, wholesaler, winemaker or brewer may sell or give the retail business newspaper cuts, mats or engraved blocks for use in the advertisements of the retail business;

(10) The distiller, wholesaler, winemaker or brewer may in an advertisement list the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met:

(a) The advertisement shall not contain the retail price of the product;

(b) The listing of the retail businesses shall be the only reference to such retail businesses in the advertisement;

(c) The listing of the retail businesses shall be relatively inconspicuous in relation to the advertisement as a whole; and

(d) The advertisement shall not refer only to one retail business or only to a retail business controlled directly or indirectly by the same retail business;

(11) **[**Notwithstanding any other provision of law to the contrary,**]** Distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. **[**However,**]** **The sweepstakes/contest prize dollar amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met:**

(a) No money or something of value **[**may be**]** **is** given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest; **and**

(b) The actual sweepstakes/contest prize is not displayed on the licensed premises if the prize value exceeds the permanent point-of-sale advertising materials dollar limit provided in this section;

(12) The distiller, wholesaler, winemaker or brewer may stock, rotate, rearrange or reset the products sold by such distiller, wholesaler, winemaker or brewer at the establishment of the retail business so long as the products of any other distiller, wholesaler, winemaker or brewer are not altered or disturbed;

(13) The distiller, wholesaler, winemaker or brewer may provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages;

(14) The distiller, wholesaler, winemaker or brewer participating in the activities of a retail business association may do any of the following:

(a) Display**, serve, or donate** its products at **or to** a convention or trade show;

(b) Rent display booth space if the rental fee is the same paid by all others renting similar space at the association activity;

(c) Provide its own hospitality which is independent from the association activity;

(d) Purchase tickets to functions and pay registration **or sponsorship** fees if such purchase or payment is the same as that paid by all attendees, participants or exhibitors at the association activity; **[**and**]**

(e) Make payments for advertisements in programs or brochures issued by retail business associations **[**at a convention or trade show**]** if the total payments made for all such advertisements **[**do not exceed three hundred dollars per year for any retail business association**]** **are fair and reasonable**;

(f) Pay dues to the retail business association if such dues or payments are fair and reasonable;

(g) Make payments or donations for retail employee training on preventive sales to minors and intoxicated persons, checking identifications, age verification devices, and the liquor control laws;

(h) Make contributions not to exceed one thousand dollars per calendar year for transportation services that shall be used to assist patrons from retail establishments to his or her residence or overnight accommodations;

(i) Donate or serve up to five hundred dollars per event of alcoholic products at retail business association activities; and

(j) Any retail business association that receives payments or donations shall, upon written request, provide the division of alcohol and tobacco control with copies of relevant financial records and documents to ensure compliance with this subsection;

(15) **[**The distiller, wholesaler, winemaker or brewer may sell its other merchandise which does not consist of intoxicating beverages to a retail business if the following requirements are met:

(a) The distiller, wholesaler, winemaker or brewer shall also be in business as a bona fide producer or vendor of such merchandise;

(b) The merchandise shall be sold at its fair market value;

(c) The merchandise is not sold in combination with distilled spirits, wines or malt beverages except as provided in this section;

(d) The acquisition or production costs of the merchandise shall appear on the purchase invoices or records of the distiller, wholesaler, winemaker or brewer; and

(e) The individual selling prices of merchandise and intoxicating beverages sold to a retail business in a single transaction shall be determined by commercial documents covering the sales transaction;

(16)**]** The distiller, wholesaler, winemaker or brewer may sell or give **[**an**] a permanent** outside sign to a retail business if the following requirements are met:

(a) The sign**, which** shall **be constructed of metal, glass, wood, plastic, or other durable, rigid material, with or without illumination, or painted or otherwise printed onto a rigid material or structure, shall** bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer;

(b) The retail business shall not be compensated, directly or indirectly, for displaying the **permanent** sign **or a temporary banner**; **[**and**]**

(c) The cost of the **permanent** sign shall not exceed **[**four**] five** hundred dollars; **and**

(d) Temporary banners of a seasonal nature or promoting a specific event shall not be constructed to be permanent outdoor signs and may be provided to retailers. The total cost of temporary outdoor banners provided to a retailer in use at any one time shall not exceed five hundred dollars per brand;

[(17)**] (16)** A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer that was delivered in a damaged condition or damaged while in the possession of the retailer;

[(18)**] (17)** To assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight or nonintoxicating beer in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

[(19)**] (18)** In addition to withdrawals authorized pursuant to subdivision **[**(18)**] (17)** of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight and nonintoxicating beer in its undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

(a) The product is withdrawn at least thirty days after initial delivery and within twenty-one days of the date considered by the manufacturer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(b) The quantity of product withdrawn does not exceed the equivalent of twenty-five cases of twenty-four twelve-ounce containers; and

(c) To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight or nonintoxicating beer, in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and

[(20)**] (19)** Nothing in this section authorizes consignment sales.

5. **(1) A distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages shall not condition the sale of its alcoholic beverages on the sale of its nonalcoholic beverages nor combine the sale of its alcoholic beverages with the sale of its nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of this section. The distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages may sell, credit, market, and promote nonalcoholic beverages in the same manner in which the nonalcoholic products are sold, credited, marketed, or promoted by a manufacturer or wholesaler not licensed by the supervisor of alcohol and tobacco control;**

(2) Any fixtures, equipment, or furnishings provided by any distiller, wholesaler, winemaker, or brewer in furtherance of the sale of nonalcoholic products shall not be used by the retail licensee to store, service, display, advertise, furnish, or sell, or aid in the sale of alcoholic products regulated by the supervisor of alcohol and tobacco control. All such fixtures, equipment, or furnishings shall be identified by the retail licensee as being furnished by a licensed distiller, wholesaler, winemaker, or brewer.

6. [All contracts entered into between**]** Distillers, **wholesalers,** brewers and winemakers, or their officers or directors**[**, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any**] shall not require, by agreement or otherwise, that any retailer purchase any intoxicating liquor from** such distillers, **wholesalers,** brewers or winemakers **[**or obligating such retail dealers to buy or sell the major part of such products required by such retail vendors from any such distiller, brewer or winemaker shall be void and unenforceable in any court in this state**] to the exclusion in whole or in part of intoxicating liquor sold or offered for sale by other distillers, wholesalers, brewers, or winemakers**.

[6.**] 7.** Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or service made or rendered shall be kept by the distiller or wholesaler furnishing, making or rendering the same for a period of not less than one year.

[7. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary,**] 8.** Distillers, **wholesalers,** winemakers, brewers or their employees or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable**, fraternal, civic, service, veterans',** or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.

[8.**] 9. Distillers, brewers, wholesalers, and winemakers may make payments for advertisements in programs or brochures of tax-exempt organizations licensed under section 311.090 if the total payments made for all such advertisements are the same as those paid by other vendors.**

10. Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, a brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors and nonintoxicating beer at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

[9.] **11.** Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises shall be closed during the hours specified under section 311.290 and may remain open between the hours of 9:00 a.m. and midnight on Sunday.

[10.] **12.** Notwithstanding any other provision of this chapter or chapter 312, RSMo, to the contrary, for the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but seventy-five percent or more of the intoxicating liquor sold by such licensed person shall be Missouri-produced wines received from manufacturers licensed under section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

311.071. SPECIAL EVENTS, NOT-FOR-PROFIT ORGANIZATIONS, CONTRIBUTIONS OF MONEY PERMITTED, WHEN. — 1. Distillers, wholesalers, winemakers, brewers, or their employees or officers may make contributions of money for special events where alcohol is sold at retail to a not-for-profit organization that:

(1) Does not hold a liquor license;

(2) Less than forty percent of the members and officers are liquor licensees;

(3) Is registered with the secretary of state as a not-for-profit organization; and

(4) Of which no part of the net earnings or contributions inures to the benefit of any private shareholder or any retail licensee member of such organization.

The contributions from distillers, wholesalers, winemakers, brewers, or their employees or officers shall be used to pay special event infrastructure expenses unrelated to any retail alcohol sales, which include, but are not limited to: security, sanitation, fencing, entertainment, and advertising.

2. Any not-for-profit organization that receives contributions under this section shall allow the division of alcohol and tobacco control full access to the organization's records for audit purposes.

311.174. CONVENTION TRADE AREA, KANSAS CITY, NORTH KANSAS CITY, JACKSON COUNTY, LIQUOR SALE BY DRINK, EXTENDED HOURS FOR BUSINESS, REQUIREMENTS, FEE. — 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a city with a population of at least four thousand inhabitants which borders the Missouri River and also borders a city with a population of over three hundred thousand inhabitants located in at least three counties, in a city with a population of over three hundred thousand which is located in whole or in part within a first class county having a charter form of government or in a first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day**; except that, an entity exempt from federal income taxes under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended, and located in a building designated as a National Historic Landmark by the United States Department of the Interior may apply for a license to remain open until 6:00 a.m. of the following day**. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. When the premises of such an applicant is located in a city as defined in this section, then the premises

must be located in an area which has been designated as a convention trade area by the governing body of the city. When the premises of such an applicant is located in a county as defined in this section, then the premises must be located in an area which has been designated as a convention trade area by the governing body of the county.

2. An applicant granted a special permit under this section shall, in addition to all other fees required by this chapter pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

3. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

311.178. CONVENTION TRADE AREA, ST. LOUIS COUNTY, LIQUOR SALE BY DRINK, EXTENDED HOURS FOR BUSINESS, REQUIREMENTS, FEE — RESORT DEFINED — SPECIAL PERMIT FOR LIQUOR SALE BY DRINK (MILLER, MORGAN, AND CAMDEN COUNTIES) — EXPIRATION DATE. — 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the first classification having a charter form of government and not containing all or part of a city with a population of over three hundred thousand, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The premises of such an applicant shall be located in an area which has been designated as a convention trade area by the governing body of the county and the applicant shall meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the third classification without a township form of government having a population of more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, a county of the third classification without a township form of government having a population of more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants or a county of the first classification without a charter form of government with a population of at least thirty-seven thousand inhabitants but not more than thirty-seven thousand one hundred inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The applicant shall meet all of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred thousand dollars or more;

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least seventy-five rooms for the overnight accommodation of transient guests, having at least three thousand square feet of meeting space and having a restaurant located on the premises; and

(3) The applicant shall develop, and if granted a special permit shall implement, a plan ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall be made except to guests with overnight accommodations at the licensee's resort. The plan shall be subject to approval by the supervisor of liquor control and shall provide a practical method for the division of liquor control and other law enforcement agencies to enforce the provisions of subsection 3 of this section.

3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any person except a guest with overnight accommodations at the licensee's resort.

4. An applicant granted a special permit pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

5. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any county of the first classification having a charter form of government which does not contain all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

[6. The enactment of subsections 2, 3, and 4 of this section shall terminate January 1, 2007.**]**

311.180. MANUFACTURERS, WHOLESALERS, SOLICITORS — LICENSE FEES — WHOLESALERS, SALE TO GAMING COMMISSION LICENSEES, ALLOWED. — 1. No person, partnership, association of persons or corporation shall manufacture, distill, blend, sell or offer for sale intoxicating liquor within this state at wholesale or retail, or solicit orders for the sale of intoxicating liquor within this state without procuring a license from the supervisor of **[**liquor**]** **alcohol and tobacco** control authorizing them so to do. For such license there shall be paid to and collected by the director of revenue annual charges as follows:

(1) For the privilege of manufacturing and brewing in this state malt liquor containing not in excess of five percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquors containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred fifty dollars;

(2) For the privilege of manufacturing in this state intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(3) For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within this state and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of four hundred and fifty dollars;

(4) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of fifty dollars;

(5) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(6) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of two hundred and fifty dollars;

(7) For the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor at retail

and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(8) For the privilege of selling intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(9) For the privilege of selling intoxicating liquor of all kinds by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of five hundred dollars, except that a license authorizing the holder to sell to duly licensed wholesalers and to solicit orders for sale of intoxicating liquor, to, by or through a duly licensed wholesaler, shall not entitle the holder thereof to sell within the state of Missouri, direct to retailers**;**

(10) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of vintage wine as defined in section 311.191, to, by, or through a duly licensed wholesaler within this state, the sum of five hundred dollars.

2. Solicitors, manufacturers and blenders of intoxicating liquor shall not be required to take out a merchant's license for the sale of their products at the place of manufacture or in quantities of not less than one gallon.

3. The provisions of this section relating to the privilege of selling malt liquor are subject to and limited by the provisions of sections 311.181 and 311.182.

4. The licenses prescribed in this section for the privilege of selling intoxicating liquor by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail shall allow such wholesaler to sell intoxicating liquor to licensees licensed by the gaming commission to sell beer or alcoholic beverages pursuant to section 313.840, RSMo.

311.185. SHIPMENTS OF ALCOHOL TO RESIDENTS PERMITTED, WHEN. — 1. Notwithstanding any rule, law, or regulation to the contrary, any person currently licensed in this state or any other state as a wine manufacturer may apply for and the supervisor of alcohol and tobacco control may issue a wine direct shipper license, as provided in this section, which allows a wine manufacturer to ship up to two cases of wine per month directly to a resident of this state who is at least twenty-one years of age for such resident's personal use and not for resale. Before sending any shipment to a resident of this state, the wine manufacturer shall first obtain a wine direct shipper license as follows:

(1) File an application with the division of alcohol and tobacco control; and

(2) Provide to the division of alcohol and tobacco control a true copy of its current alcoholic beverage license issued in this state or any other state, as well as a copy of the winery license from the Alcohol and Tobacco Tax and Trade Bureau.

2. All wine direct shipper licensees shall:

(1) Not ship more than two cases of wine per month to any person for his or her personal use and not for resale;

(2) Not use any carrier for shipping of wine that is not licensed under this section;

(3) Only ship wine that is properly registered with the Alcohol and Tobacco Tax and Trade Bureau;

(4) Only ship wine manufactured on the winery premises;

(5) Ensure that all containers of wine delivered directly to a resident of this state are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are conspicuously labeled with wording preapproved by the division of alcohol and tobacco control;

(6) If the winery is located outside of this state, by January thirty-first, make a report under oath to the supervisor of alcohol and tobacco control setting out the total amount of wine shipped into the state the preceding year;

(7) If the winery is located outside of this state, pay the division of alcohol and tobacco control all excise taxes due on the amount to be calculated as if the sale were in this state at the location where the delivery is made;

(8) If the winery is located within this state, provide the division of alcohol and tobacco control any additional information deemed necessary beyond that already required for retail sales from the winery tasting room to ensure compliance with this section;

(9) Permit the division of alcohol and tobacco control to perform an audit of the wine direct shipper licensees' records upon request; and

(10) Be deemed to have consented to the jurisdiction of the division of alcohol and tobacco control or any other state agency and the Missouri courts concerning enforcement of this section and any related laws, rules, or regulations.

3. The wine direct shipper licensee may annually renew its license with the division of alcohol and tobacco control by providing the division of alcohol and tobacco control all required items provided in subsection 1 of this section.

4. Notwithstanding any law, rule, or regulation to the contrary, any carrier may apply for and the supervisor of alcohol and tobacco control may issue an alcohol carrier license, as provided in this section, which allows the carrier to transport and deliver shipments of wine directly to a resident of this state who is at least twenty-one years of age or older. Before transporting any shipment of wine to a resident of this state, the carrier shall first obtain an alcohol carrier license by filing an application with the division of alcohol and tobacco control.

5. All alcohol carrier licensees shall:

(1) Not deliver to any person under twenty-one years of age, or to any intoxicated person, or any person appearing to be in a state of intoxication;

(2) Require valid proof of identity and age;

(3) Obtain the signature of an adult as a condition of delivery; and

(4) Keep records of wine shipped which include the license number and name of the winery or retailer, quantity of wine shipped, recipient's name and address, and an electronic or paper form of signature from the recipient of the wine.

6. The division of alcohol and tobacco control may promulgate rules to effectuate the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

311.190. WINE OR BRANDY MANUFACTURER'S LICENSE, FEE — USE OF MATERIALS PRODUCED OUTSIDE STATE, LIMITATION, EXCEPTION — WHAT SALES MAY BE MADE, WHEN. — 1. For the privilege of manufacturing wine or brandy, which manufacturing shall be in accordance with all provisions of federal law applicable thereto except as may otherwise be specified in this section, in quantities not to exceed five hundred thousand gallons, not in excess of eighteen percent of alcohol by weight for wine, or not in excess of thirty-four percent of alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey, and vegetables produced or grown in the state of Missouri, exclusive of sugar, water and spirits, there shall be paid to and collected by the director of revenue, in lieu of the charges provided in section

311.180, a license fee of five dollars for each five hundred gallons or fraction thereof of wine or brandy produced up to a maximum license fee of three hundred dollars.

2. Notwithstanding the provisions of subsection 1 of this section, a manufacturer licensed under this section may use in any calendar year such wine- and brandy-making material produced or grown outside the state of Missouri in a quantity not exceeding fifteen percent of the manufacturer's wine entered into fermentation in the prior calendar year.

3. In any year when a natural disaster causes substantial loss to the Missouri crop of grapes, berries, other fruits, fruit products, honey or vegetables from which wines are made, the director of the department of agriculture shall determine the percent of loss and allow a certain additional percent, based on the prior calendar year's production of such products, to be purchased outside the state of Missouri to be used and offered for sale by Missouri wineries.

4. A manufacturer licensed under this section may purchase and sell bulk or packaged wines or brandies received from other manufacturers licensed under this section and may also purchase in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any day except Sunday, and a manufacturer licensed under this section may offer samples of wine, may sell wine and brandy in its original package directly to consumers at the winery, and may open wine so purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and midnight and on Sunday between **[**11:00 a.m.**]** **9:00 a.m.** and 10:00 p.m.

311.240. PERIOD OF LICENSE — FEDERAL LICENSE REQUIRED — CONTENTS OF LICENSE — RENEWALS. — 1. On approval of the application and payment of the license tax provided in this chapter, the supervisor of liquor control shall grant the applicant a license to conduct business in the state for a term to expire with the thirtieth day of June next succeeding the date of such license. A separate license shall be required for each place of business. Of the license tax to be paid for any such license, the applicant shall pay as many twelfths as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July first.

2. No such license shall be effective, and no right granted thereby shall be exercised by the licensee, unless and until the licensee shall have obtained and securely affixed to the license in the space provided therefor an original stamp or other form of receipt issued by the duly authorized representative of the federal government, evidencing the payment by the licensee to the federal government of whatever excise or occupational tax is by any law of the United States then in effect required to be paid by a dealer engaged in the occupation designated in said license. Within ten days from the issuance of said federal stamp or receipt, the licensee shall file with the supervisor of liquor control a photostat copy thereof, or such duplicate or indented and numbered stub therefrom as the federal government may have issued to the taxpayer with the original.

3. Every license issued under the provisions of this chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

4. Applications for renewal of licenses must be filed on or before the first day of May of each calendar year.

5. In case of failure to submit the completed renewal application required under subsection 4 of this section on or before the first day of May, there shall be added to the amount of the renewal fee a late charge of one hundred dollars from the second day of May to the last day of May; a late charge of two hundred dollars if the renewal application is submitted on the first day of June to the last day of June; or a late charge of three hundred dollars if the renewal application is submitted after the last day of June.

311.275. WHOLESALE-SOLICITORS REGISTRATION REQUIRED — PRIMARY AMERICAN SOURCE OF SUPPLY, DEFINED — VINTAGE WINE REGISTRATION. — 1. For purposes of tax revenue control, beginning January 1, 1980, no holder of a license to solicit orders for the sale of intoxicating liquor, as defined in this chapter, within this state, other than a wholesale-solicitor, shall solicit, accept, or fill any order for any intoxicating liquor from a holder of a wholesaler's license issued under this chapter, unless the holder of such solicitor's license has registered with the division of **[**liquor**]** **alcohol and tobacco** control as the primary American source of supply for the brand of intoxicating liquor sold or sought to be sold. The supervisor of **[**liquor**]** **alcohol and tobacco** control shall provide forms for annual registration as the primary American source of supply, and shall prescribe the procedures for such registration.

2. Beginning January 1, 1980, no holder of a wholesaler's license issued under this chapter shall order, purchase or receive any intoxicating liquor from any solicitor, other than a wholesale-solicitor, unless the solicitor has registered with the division of **[**liquor**]** **alcohol and tobacco** control as the primary American source of supply for the brand of intoxicating liquor ordered, purchased or received.

3. The term "primary American source of supply" as used herein shall mean the distiller, producer, the owner of the commodity at the time it became a marketable product, the bottler, or the exclusive agent of any such distiller, producer, bottler or owner, the basic requirement being that the nonresident seller be the first source closest to the manufacturer in the channel of commerce from whom the product can be secured by American wholesalers.

4. Any vintage wine solicitor licensed under section 311.180 may register as the primary American source of supply for vintage wine with the division of alcohol and tobacco control, provided that another solicitor is not registered as the primary American source of supply for the vintage wine and the vintage wine has been approved for sale by the federal Alcohol and Tobacco Tax and Trade Bureau.

311.297. ALCOHOL SAMPLES FOR TASTING OFF LICENSED RETAIL PREMISES, WHEN. — 1. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this section, a sales transaction shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

2. Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

311.420. TRANSPORTER'S LICENSE — FEE — BOND — QUALIFICATIONS — CERTAIN CARRIERS EXEMPT. — 1. No person, except carriers regulated by the motor carrier and railroad safety division of the department of economic development under chapters 387, 389 and 390, RSMo, shall transport into, within, or through the state of Missouri any intoxicating liquors in quantities larger than five gallons unless such person holds a valid license or permit from the supervisor of **[**liquor**]** **alcohol and tobacco** control of the state of Missouri to do so. For such license, there shall be paid to the director of revenue the sum of ten dollars per annum. Application for such license shall be made to the supervisor of **[**liquor**]** **alcohol and tobacco** control of the state of Missouri and each applicant shall submit with his application a bond in the penal sum of one thousand dollars with sufficient surety to be approved by the supervisor of **[**liquor**]** **alcohol and tobacco** control, conditioned that he will not violate any provisions of the liquor control laws of this state or any regulation promulgated under such liquor control laws, and any violation of such condition shall work a forfeiture of such bond to the state of Missouri.

The license year shall end on June thirtieth, and the applicant shall pay as many twelfths as there are months, with each part of a month being counted as a month, remaining from the date of the license to the next succeeding July first. The supervisor of **[**liquor**]** **alcohol and tobacco** control may issue single transaction licenses, for which there shall be paid to the director of revenue the sum of five dollars, and, if the value of the liquor to be transported exceeds one hundred dollars, the permit shall not be issued until the bond provided for above in this section is given to the state. No such transporter's license shall be required of any person licensed by the supervisor of **[**liquor**]** **alcohol and tobacco** control whose licensed premises are located in the state of Missouri, nor shall it be necessary to procure a license to transport liquor purchased from a retail liquor dealer duly licensed by the supervisor of **[**liquor**]** **alcohol and tobacco** control of the state of Missouri. No license or permit shall be required to transport industrial alcohol.

2. The qualifications prescribed for the issuance of other licenses by the provisions of the liquor control law shall not apply to licenses issued under this section, but no license shall be issued to any person who is not of good moral character or who has been convicted since the ratification of the twenty-first amendment to the Constitution of the United States of the violation of any law applicable to the manufacture or sale of intoxicating liquor, nor to any person who has had a license from the supervisor of **[**liquor**]** **alcohol and tobacco** control revoked. If applicant is a corporation, the managing officer thereof must possess the qualifications prescribed in this section.

3. Carriers licensed under this section or carriers exempt from holding a permit under this section shall not deliver wine to a resident of this state without obtaining an alcohol carrier license under section 311.185.

311.462. INTERSTATE RECIPROCAL WINE SHIPMENTS, ALLOWED WHEN, LIMITATIONS — SOLICITATION PROHIBITED. — 1. Notwithstanding any other provision of law, **[**an adult resident or**]** **a** holder of **[**an**]** **a retailer** alcoholic beverage license in this state or a state which affords Missouri licensees **[**or adult residents**]** an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than two cases of wine, each case containing not more than nine liters, per year to any adult resident of this state. Delivery of a shipment pursuant to this section shall not be deemed to constitute a sale in this state.

2. The shipping container of any wine sent into or out of this state under this section shall be clearly labeled to indicate that the package cannot be delivered to a person under the age of twenty-one years or to an intoxicated person.

3. No broker within this state may solicit consumers to engage in interstate reciprocal wine shipments under this section. No shipper located outside this state may advertise such interstate reciprocal wine shipments in this state.

311.685. CIVIL ACTIONS PERMITTED, WHEN. — 1. Any retail licensee selling intoxicating liquor or nonintoxicating beer under this chapter or chapter 312, RSMo, and aggrieved by official action of the supervisor affecting the licensee, may bring a civil action against any person who is the proximate cause of such official action by the supervisor, if the violation occurred on or about the premises of the retail licensee. If a judgment is entered in favor of the licensee, the court shall award the retail licensee civil damages up to an amount of five thousand dollars and shall award reasonable court costs and attorney fees.

2. No civil action shall be brought under this section against any employee of the supervisor of alcohol and tobacco control or any law enforcement officer.

Approved July 13, 2007

SB 302 [SCS SB 302]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to commercial real estate liens and mechanic liens

AN ACT to repeal sections 429.010, 429.080, and 429.603, RSMo, and to enact in lieu thereof three new sections relating to statutory liens against real estate.

SECTION
A. Enacting clause.
429.010. Mechanics' and materialmen's lien, who may assert — extent of lien.
429.080. Lien filed with circuit clerk, when.
429.603. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 429.010, 429.080, and 429.603, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 429.010, 429.080, and 429.603, to read as follows:

429.010. MECHANICS' AND MATERIALMEN'S LIEN, WHO MAY ASSERT — EXTENT OF LIEN. — 1. Any person who shall do or perform any work or labor upon **land**, rent any machinery or equipment**, or use any rental machinery or equipment**, or furnish any material, fixtures, engine, boiler or machinery for any building, erection or improvements upon land, or for repairing, grading, excavating, or filling of the same, or furnish and plant trees, shrubs, bushes or other plants or provides any type of landscaping goods or services or who installs outdoor irrigation systems under or by virtue of any contract with the owner or proprietor thereof, or his or her agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of sections 429.010 to 429.340, shall have for his or her work or labor done, machinery or equipment rented or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or other plants furnished, or any type of landscaping goods or services provided, a lien upon such building, erection or improvements, and upon the land belonging to such owner or proprietor on which the same are situated, to the extent of three acres; or if such building, erection or improvements be upon any lot of land in any town, city or village, or if such building, erection or improvements be for manufacturing, industrial or commercial purposes and not within any city, town or village, then such lien shall be upon such building, erection or improvements, and the lot, tract or parcel of land upon which the same are situated, and not limited to the extent of three acres, to secure the payment of such work or labor done, machinery or equipment rented, or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or other plants or any type of landscaping goods or services furnished, or outdoor irrigation systems installed; except that if such building, erection or improvements be not within the limits of any city, town or village, then such lien shall be also upon the land to the extent necessary to provide a roadway for ingress to and egress from the lot, tract or parcel of land upon which such building, erection or improvements are situated, not to exceed forty feet in width, to the nearest public road or highway. Such lien shall be enforceable only against the property of the original purchaser of such plants unless the lien is filed against the property prior to the conveyance of such property to a third person. For claims involving the rental of machinery or equipment **to others who use the rental machinery or equipment**, the lien shall be for the reasonable rental value of the machinery or equipment during the period of

actual use and any periods of nonuse taken into account in the rental contract, while the **machinery or** equipment is on the property in question.

2. There shall be no lien involving the rental of machinery or equipment unless:

(1) The improvements are made on commercial property;

(2) The amount of the claim exceeds five thousand dollars; and

(3) The party claiming the lien provides written notice within five business days of the commencement of the use of the rental **[**property**]** **machinery or equipment** to the property owner that rental machinery or equipment is being used upon their property. Such notice shall identify the name of the entity that rented the machinery or equipment, the machinery or equipment being rented, and the rental rate. **Nothing contained in subsection 2 of this section shall apply to persons who use rented machinery or equipment in performing the work or labor described in subsection 1 of this section.**

429.080. LIEN FILED WITH CIRCUIT CLERK, WHEN. — It shall be the duty of every original contractor, every journeyman and day laborer, **including persons who use rented machinery or equipment in performing such work or labor,** and every other person seeking to obtain the benefit of the provisions of sections 429.010 to 429.340, within six months after the indebtedness shall have accrued, or, with respect to rental equipment or machinery **rented to others, then**, within sixty days after the date the last of the rental equipment or machinery was last removed from the property, to file with the clerk of the circuit court of the proper county a just and true account of the demand due him or them after all just credits have been given, which is to be a lien upon such building or other improvements, and a true description of the property, or so near as to identify the same, upon which the lien is intended to apply, with the name of the owner or contractor, or both, if known to the person filing the lien, which shall, in all cases, be verified by the oath of himself or some credible person for him.

429.603. DEFINITIONS. — As used in sections 429.600 to 429.630, the following terms mean:

(1) "Commercial real estate", any real estate other than real estate containing one to four residential units**[**, real estate on which no buildings or structures are located,**]** or real estate classified as agricultural and horticultural property for assessment purposes as provided by section 137.016, RSMo. **Commercial real estate shall include any unimproved real estate of any zoning classification, other than agricultural or horticultural real estate, being purchased for development or subdivision.** Commercial real estate does not include single-family residential units including condominiums, townhouses or homes in a subdivision when such real estate is sold, leased or otherwise conveyed on a unit by unit basis even though the units may be part of a larger building or parcel of real estate containing more than four residential units;

(2) "Owner", the owner of record of commercial real estate;

(3) "Real estate broker" and "real estate salesperson", as such terms are defined in section 339.010, RSMo;

(4) "State certified real estate appraiser", an appraiser as defined in section 339.503, RSMo.

Approved June 27, 2007

SB 308 [CCS#2 HCS SCS SB 308]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies licensing standards and practice of audiologists and hearing instrument specialists

AN ACT to repeal sections 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, RSMo, and to enact in lieu thereof ninety-nine new sections relating to the practice of certain licensed professionals, with penalty provisions and an effective date for certain sections.

SECTION

346.035. Exempt profession.
346.055. Requirements for license by examination.
346.060. Examination, written and practical required.
346.110. Prohibited acts.
383.130. Definitions.
383.133. Reports by hospitals, ambulatory surgical centers and licensing authorities, when, contents, limited use, penalty.
621.045. Commission to conduct hearings, make determinations — boards included — settlement agreements.
327.111. Penalty for unauthorized practice.
327.201. Penalty for unauthorized practice.
327.291. Penalty for unauthorized practice.
327.633. Violations, penalty.
336.090. Qualifications for registration of applicant licensed in another state — fees required.
336.200. Advertising to include names of registered optometrists — penalty.
337.606. Academic requirements, exemptions.
337.609. Employment of licensed clinical social workers not required, when.
337.624. Third-party reimbursements by insurance not mandated, construction of statutes.
337.639. Privileged communications, exceptions.
337.650. Definitions.
337.659. No employer required to employ licensed social workers.
337.668. Term of license — renewal.
337.674. No mandatory third-party reimbursement for services.
337.677. Rulemaking authority.
337.680. Refusal to issue or renew license, when — complaint procedure.
337.686. Confidentiality requirements, exceptions.
B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, RSMo, are repealed and ninety-nine new sections enacted in lieu thereof, to be known as sections 37.800, 192.632, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 317.019, 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1142, 324.1144, 324.1146, 324.1148, 327.011, 327.076, 327.077, 327.181, 327.441, 331.010, 334.120, 335.016, 335.036, 335.066, 335.067, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.140, 336.160, 336.220, 336.225, 337.600, 337.603, 337.604, 337.612, 337.615, 337.618, 337.622, 337.627, 337.630, 337.636, 337.643, 337.644, 337.645, 337.646, 337.653, 337.665, 337.689, 337.700, 337.715, 337.718, 339.100, 339.200, 339.205, 345.015, 345.030, 345.033, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, and 621.045, to read as follows:

37.800. AUTOMATED TELEPHONE ANSWERING SYSTEMS, CALLER TO BE GIVEN OPTION OF SPEAKING TO A LIVE OPERATOR, WHEN. — 1. This section shall be known and may be cited as the "The Human Voice Contact Act".

2. A state agency that uses automated telephone answering equipment to answer incoming telephone calls shall, during normal business hours of the agency, provide the caller with the option of speaking to a live operator. This section shall not apply to field offices, telephone lines dedicated as hotlines for emergency services, telephone lines dedicated to providing general information, and any system that is designed to permit an

individual to conduct a complete transaction with the state agency over the telephone solely by pressing one or more touch tone telephone keys in response to automated prompts. As used in this section, "state agency" refers to each board, commission, department, officer or other administrative office or unit of the state other than the general assembly, the courts, the governor, or a political subdivision of the state, existing under the constitution or statute.

192.632. TASK FORCE CREATED, MEMBERS, DUTIES. — 1. There is hereby created a "Chronic Kidney Disease Task Force". Unless otherwise stated, members shall be appointed by the director of the department of health and senior services and shall include, but not be limited to, the following members:

(1) Two physicians appointed from lists submitted by the Missouri State Medical Association;

(2) Two nephrologists;

(3) Two family physicians;

(4) Two pathologists;

(5) One member who represents owners or operators of clinical laboratories in the state;

(6) One member who represents a private renal care provider;

(7) One member who has a chronic kidney disease;

(8) One member who represents the state affiliate of the National Kidney Foundation;

(9) One member who represents the Missouri Kidney Program;

(10) Two members of the house of representatives appointed by the speaker of the house of representatives;

(11) Two members of the senate appointed by the president pro tempore of the senate;

(12) Additional members may be chosen to represent public health clinics, community health centers, and private health insurers.

2. A chairperson and a vice-chairperson shall be elected by the members of the task force.

3. The chronic kidney task force shall:

(1) Develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, quality initiative clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines;

(2) Make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease for the state's population;

(3) Identify barriers to adoption of best practices and potential public policy options to address such barriers;

(4) Submit a report of its findings and recommendations to the general assembly within one year of its first meeting.

4. The department of health and senior services shall provide all necessary staff, research, and meeting facilities for the chronic kidney disease task force.

317.001. DEFINITIONS. — As used in sections 317.001 to 317.021, the following words and terms mean:

(1) **"Amateur", a person who competes in a boxing, wrestling, kickboxing, or full-contact karate event who has not competed as a contestant for valuable consideration in any event in which similar boxing, wrestling, kickboxing, or full-contact karate skills were used or allowed;**

(2) "Bout", one match involving **[**either**]** professional boxing, sparring, professional wrestling, professional kickboxing**,** or professional full-contact karate**, including professional mixed martial arts**;

(3) "Boxing", the sport of attack and defense where contestants are allowed to only use the fist to attack or strike in competition;

[(2)**] (4)** "Combative fighting", **[**also known as "toughman fighting", "toughwoman fighting", "badman fighting", "ultimate fighting", "U.F.C." and "extreme fighting", any boxing or wrestling match, contest or exhibition, between two or more contestants, with or without protective headgear, who use their hands, with or without gloves, or their feet, or both, and who compete for a financial prize or any item of pecuniary value, and which match, contest, tournament championship or exhibition is not recognized by and not sanctioned by any officially recognized state, regional or national boxing or athletic sanctioning authority, or any promoter duly licensed by the division of professional registration**] a bout or contest, with or without gloves or protective headgear, whereby any part of the contestant's body may be used as a weapon or any other means of fighting may be used with the specific purpose of intentionally injuring the other contestants in such a manner that they may not defend themselves and in which there is no referee**;

[(3)**] (5)** "Contest", a bout or a group of bouts involving licensed contestants competing in professional boxing, sparring, professional wrestling, professional kickboxing**,** or professional full-contact karate;

[(4)**] (6)** "Contestant", a person who competes in any **[**activity covered by sections 317.001 to 317.021**] boxing, wrestling, kickboxing, or full-contact karate event**;

[(5)**] (7)** "Division", the division of professional registration;

[(6)**] (8)** "Director", the director of the division of professional registration;

(9) "Exhibition", a boxing, wrestling, kickboxing, or full-contact karate engagement in which persons are participating to show or display their boxing, wrestling, kickboxing, or full-contact karate skill and in which no decision is rendered;

[(7)**] (10)** "Fund", the athletic fund established pursuant to sections 317.001 to 317.021;

[(8) "Mandatory count of eight", a required count of eight that is given by a referee to a contestant who has been knocked down;

(9) "Noncompetitive boxing", boxing or sparring where a decision is not rendered;

(10)**] (11) "Full-contact karate", any form of full-contact martial arts including, but not limited to, full-contact kungfu, full-contact tae kwon do, or any form of martial arts, mixed martial arts, combat or self-defense conducted on a full-contact basis in a match where contestants are allowed to deliver blows or strikes;**

(12) "Kickboxing", any match in which contestants are allowed to use any form of boxing and are also allowed to use any part of the fist, foot, or leg, with or without shin guards or protective gear, or any combination thereof to deliver strikes above the waist and which does not constitute mixed martial arts as defined by this section;

(13) "Mixed martial arts", any match in which any form of martial arts or self-defense is conducted on a full-contact basis and where other combative techniques or tactics are allowed in competition including, but not limited to, kicking, striking, chokeholds, boxing, wrestling, kickboxing, grappling, or joint manipulation. Professional mixed martial arts is a form of full-contact karate;

(14) "Office", the division of professional registration, office of athletics;

[(11) "Professional boxing", the sport of attack and defense which uses the fist and where contestants compete for valuable consideration;

(12) "Professional full-contact karate", any form of full-contact martial arts including but not limited to full-contact kungfu, full-contact taw kwon-do, or any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest where weapons are not used and where contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

(13) "Professional kickboxing", any form of boxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot, and where contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

(14) "Professional wrestling", any performance of wrestling skills and techniques by two or more professional wrestlers, to which any admission is charged. Participating wrestlers may not be required to use their best efforts in order to win, the winner may have been selected before the performance commences and contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;**]**

(15) **"Professional", a wrestling, boxing, kickboxing, or full-contact karate bout or contest where the participants compete for any valuable consideration or a person who competes in any wrestling, boxing, kickboxing, or full-contact karate bout or contest for any such consideration;**

(16) "Sparring", **[**boxing for practice or as an exhibition**]** **any boxing, wrestling, kickboxing, or full-contact karate conducted for practice and for which admission or other similar consideration, in any form, is charged to any member of the public**;

[(16) "Standing mandatory eight count", the count of eight that is given at the discretion of a referee to a contestant who has been dazed by a blow and is unable to defend himself or herself. The standing mandatory eight count may be waived in a bout only with special permission of the office.**]**

(17) "Wrestling", any performance of wrestling skills and techniques by two or more individuals. Participating wrestlers may perform without being required to use their best efforts in order to win and the winner may have been selected before the performance commences.

317.006. DIRECTOR TO SUPERVISE PROFESSIONAL BOXING, SPARRING, WRESTLING AND KARATE CONTESTS — POWERS — DUTIES — FEES, HOW SET — TELECASTS — ATHLETIC FUND. — 1. The division **[**of professional registration**]** shall have general charge and supervision of all professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, and it shall have the power, and it shall be its duty:

(1) To make and publish rules governing in every particular professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests;

(2) **To make and publish rules governing the approval of amateur sanctioning bodies;**

(3) To accept applications for and issue licenses to contestants in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, and referees, judges, matchmakers, managers, promoters, seconds, announcers, timekeepers and physicians involved in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, as authorized herein. Such licenses shall be issued in accordance with rules duly adopted by the division;

[(3)**]** **(4)** To charge fees to be determined by the director and established by rule for every license issued and to assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company, or association holding a promoter's license and permit under sections 317.001 to 317.021, derived from admission charges connected with or as an incident to the holding of any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest in **[**this state**]** **the state of Missouri**. Such funds shall be paid to the division of professional registration which shall pay said funds into the **Missouri** state treasury to be set apart into a fund to be known as the "Athletic Fund" which is hereby established;

[(4)**]** **(5)** To assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company or association holding a promoter's license

[and permit**]** under sections 317.001 to 317.021, derived from the sale, lease or other exploitation in this state of broadcasting, television, **pay-per-view,** closed-circuit telecast, and motion picture rights for any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest. Such funds shall be paid to the division **[**of professional registration**]** which shall pay said funds into the **Missouri** state treasury to be set apart into a fund to be known as the "Athletic Fund";

[(5) To assess a tax of twenty-five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company or association derived from the sale, lease or other exploitation in this state of broadcasting, television, closed-circuit telecast, and motion picture rights for any combative fighting contest. Such funds shall be paid to the division of professional registration, which shall pay said funds into the state treasury to be set apart into a fund to be known as the athletic fund;**]**

(6) Each cable television system operator whose pay-per-view **or closed-circuit** facilities are utilized to telecast a bout or contest shall, within thirty calendar days following the date of the telecast, file a report with the office stating the number of orders sold and the price per order.

2. All fees established pursuant to sections 317.001 to 317.021 shall be determined by the director by rule in such amount as to produce sufficient revenue to fund the necessary expenses and operating costs incurred in the administration of the provisions of sections 317.001 to 317.021. All expenses shall be paid as otherwise provided by law.

317.011. ATHLETIC FUND, CREATED, SOURCE OF FUNDS — DIRECTOR ONLY TO LICENSE CERTAIN CONTESTS, EXCEPTIONS — LAW NOT APPLICABLE TO AMATEUR MATCHES. — 1. The division **[**of professional registration**]** shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division **[**of professional registration**]** which shall pay such funds into the **Missouri** state treasury to be set apart into the athletic fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The division **[**of professional registration**]** shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri except:

(1) Where such professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest is to be held under the auspices of a promoter duly licensed by the division;

[(2) Where such contest shall be of not more than fifteen rounds of three minutes each duration per bout;**]** and

[(3)**] (2)** Where a fee has been paid for such permit, in an amount established by rule.

4. In such contests a decision shall be rendered by three judges licensed by the division.

5. Specifically exempted from the provisions of this chapter are contests or exhibitions for amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized amateur sanctioning body approved by the office.

317.013. MANDATORY MEDICAL SUSPENSIONS, DETERMINATION — MEDICALLY RETIRED PERSONS. — 1. In order to protect the health and welfare of the contestants, there shall be a mandatory medical suspension of any contestant, not to exceed one hundred **[**twenty**]** **eighty** days, who loses consciousness or who has been injured as a result of blows received to the head or body during a **[**boxing bout or semiprofessional elimination contest**]** **professional boxing, professional wrestling, professional kickboxing, or professional full-contact karate contest**. The determination of consciousness is to be made only by a physician licensed by the board of healing arts and the division. Medical suspensions issued in accordance with this section shall not be reviewable by any tribunal.

2. No license shall be issued to any person who has been injured in such a manner that they may not continue **to participate in** boxing**, wrestling, kickboxing, or full-contact karate contests** in the future. Such a person shall be deemed medically retired. No person with a status of medically retired shall compete in any events governed by this chapter. Medical retirements issued in accordance with this section shall not be reviewable by any tribunal.

317.015. COMPLAINTS AGAINST LICENSEES, FILED WITH ADMINISTRATIVE HEARING COMMISSION — REFUSAL TO ISSUE LICENSE, NOTIFICATION, APPEAL — SANCTIONS ON LICENSE PERMITTED, WHEN. — 1. Any person wishing to make a complaint against a licensee under sections 317.001 to 317.014 shall file the written complaint with the division setting forth supporting details. If the division determines that the charges warrant a hearing to ascertain whether the licensee shall be disciplined, it shall file a complaint with the administrative hearing commission as provided in chapter 621, RSMo. Any person holding more than one license issued by the division and disciplined under one license will automatically be disciplined under all licenses.

2. (1) The division may refuse to issue any permit or license pursuant to this chapter for one or any combination of reasons stated in paragraphs (a) through (m) of subdivision (2) of this subsection. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of their rights to file a complaint or an appeal with the administrative hearing commission as provided in chapter 621, RSMo.

(2) The division may file a complaint with the administrative hearing commission, as provided in chapter 621, RSMo, against any holder of any permit or license issued pursuant to this chapter, or against any person who has failed to renew or has surrendered their permit or license, for any one or more of the following reasons:

(a) Use of an alcoholic beverage or any controlled substance, as defined in chapter 195, RSMo, before or during a bout;

(b) The person has been found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution under any state or federal law for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed;

(c) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued pursuant to this chapter;

(d) Providing false information on applications or medical forms;

(e) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performing of the functions or duties of any profession licensed or regulated by this chapter;

(f) Violating or enabling any person to violate any provision of this chapter or any rule adopted pursuant to this chapter;

(g) Impersonating any permit or license holder or allowing any person to use their permit or license;

(h) Contestants failing to put forth their best effort during a bout;

(i) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter and issued by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(j) A person adjudged mentally incompetent by a court of competent jurisdiction;

(k) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(l) Use of foul or abusive language or mannerisms or threats of physical harm by any person associated with any bout or contest licensed pursuant to this chapter; or

(m) Issuance of a permit or license based upon a mistake of fact.

(3) After the complaint is filed, the proceeding shall be conducted in accordance with the provisions of chapter 621, RSMo. If the administrative hearing commission finds that a person has violated one or more of the grounds as provided in paragraphs (a) through (m) of subdivision (2) of this subsection, the division may censure or place the person named in the compliant on probation on appropriate terms and conditions for a period not to exceed five years, may suspend the person's license for a period not to exceed three years, or may revoke the person's license.

3. Upon a finding that the grounds provided in subsection 2 of this section for disciplinary action are met, the office may, singly or in combination, censure or place on probation on such terms and conditions as the office deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years or revoke the certificate, license, or permit. In any order of revocation, the office may provide that the person shall not apply for a new license for a maximum of three years and one day following the date of the order of revocation. All stay orders shall toll the disciplinary time periods allotted herein. In lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the office may require of a licensee:

(1) Satisfactory completion of medical testing and/or rehabilitation programs as the office may specify; and/or

(2) A review conducted as the office may specify and satisfactory completion of medical testing and/or rehabilitation programs as the office may specify.

317.018. COMBATIVE FIGHTING PROHIBITED — PROMOTION OR PARTICIPATION IN COMBATIVE FIGHTING, FELONY — MEDICAL PERSONNEL — EXCEPTIONS. — 1. Combative fighting is prohibited in the state of Missouri.

2. Anyone who promotes or participates in combative fighting, or anyone who serves as an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for combative fighting is guilty of a class D felony.

3. Any medical personnel who administers to, treats or assists any participants of combative fighting shall not be subject to the provisions of this section.

4. **[**Nothing in section 317.001 or this section shall be construed to give authority to the Missouri state athletic commission to regulate boxing, sparring, wrestling or contact karate conducted by entities which are not regulated on July 10, 1996, including but not limited to events conducted by the:

(1) Military;

(2) Private schools;

(3) Church schools;

(4) Home schools;

(5) Martial arts academies;

(6) Private gyms;

(7) YWCAs and YMCAs;

(8) Elementary and secondary schools;

(9) College and university inter- and intra-mural;

(10) Fraternal organizations;

(11) Camps, conducted by church or not for profit organizations;

(12) Olympic committees; or

(13) Correctional facilities.

5.**]** Nothing in section 317.001 or this section is intended to regulate, or interfere with or make illegal, traditional, sanctioned **amateur or scholastic** boxing, **[**including professional,**]** amateur**[**,**]** **or** scholastic**[**, championship boxing, amateur**]** wrestling **[**or scholastic wrestling**]** **amateur or scholastic kickboxing, or amateur or scholastic full-contact karate or amateur or scholastic mixed martial arts**.

317.019. BOUT CONTRACTS REQUIRED, WHEN — CONTENTS, CHANGES — PAYMENT OF EVENT OFFICIAL'S FEES. — 1. The promoter of a professional boxing, professional kickboxing, and professional full-contact karate contest shall sign written bout contracts with each professional contestant. Original bout contracts shall be filed with the division prior to the event as required by the rules of the office. The bout contract shall be on a form supplied by the division and contain at least the following:

(1) The weight required of the contestant at weigh-in;

(2) The amount of the purse to be paid for the contest;

(3) The date and location of the contest;

(4) The glove size allotted for each contestant;

(5) Any other payment or consideration provided to the contestant;

(6) List of all fees, charges, and expenses including training expenses that will be assessed to the contestant or deducted from the contestant's purse;

(7) Any advances paid to the contestant before the bout;

(8) The amount of any compensation or consideration that a promoter has contracted to receive in connection with the bout or contest;

(9) The signature of the promoter and contestant;

(10) The date signed by both the promoter and the contestant; and

(11) Any information required by the office.

2. If the bout contract between a contestant and promoter is changed, the promoter shall provide the division with the amended contract containing all contract changes at least two hours prior to the event's scheduled start time. The amended contract shall comply with all requirements for original bout contracts and shall contain the signature of the promoter and contestant.

3. A promoter of an event shall not be a manager for a contestant who is contracted for ten rounds or more at the event.

4. The promoter of an event shall provide payments for the event official's fees to the office prior to the start of the event. The form of payment shall be at the discretion of the office provided that payments remitted by check or money order shall be made payable directly to the applicable official.

324.1100. DEFINITIONS. — As used in sections 324.1100 to 324.1148, the following terms mean:

(1) "Board", the board of private investigator examiners established in section 324.1102;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of insurance, financial institutions and professional registration;

(4) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

(5) "Organization", a corporation, trust, estate, partnership, cooperative, or association;

(6) "Person", an individual or organization;

(7) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

(8) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

(9) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) Securing evidence to be used before any court, board, officer, or investigating committee;

(e) Sale of personal identification information to the public; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

324.1102. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public members shall each be a registered voter and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The members shall be appointed for terms of two years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years, and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment. No member may serve consecutive terms.

4. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer

shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

324.1104. PROHIBITED ACTS. — Unless expressly exempted from the provisions of sections 324.1100 to 324.1148:

(1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator under sections 324.1100 to 324.1148;

(2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed under sections 324.1100 to 324.1148.

324.1106. PERSONS DEEMED NOT TO BE ENGAGING IN PRIVATE INVESTIGATION BUSINESS. — The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;

(4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;

(5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;

(8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary who makes and processes requests on behalf of health care providers and facilities for employee criminal and other background information under section 660.317, RSMo;

(11) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

(12) Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

(13) Any person who does not hold themselves out to the public as a private investigator but is under contract with a state agency or political subdivision; or

(14) Any person performing duties or conducting investigations relating to serving legal process when such person's investigation is incidental to the serving of legal process;

(15) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees.

324.1108. APPLICATION FOR LICENSURE, CONTENTS — QUALIFICATIONS. — 1. Every person desiring to be licensed in this state as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license under the provisions of sections 324.1100 to 324.1148 shall be on a form prescribed by the board of private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;

(2) The name under which the applicant intends to conduct business;

(3) A statement as to the general nature of the business in which the applicant intends to engage;

(4) A statement as to the classification or classifications under which the applicant desires to be qualified;

(5) Two recent photographs of the applicant, of a type prescribed by the board of private investigator examiners, and two classifiable sets of the applicant's fingerprints processed in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo;

(6) A verified statement of the applicant's experience qualifications; and

(7) Such other information, evidence, statements, or documents as may be required by the board of private investigator examiners.

2. Before an application for a license may be granted, the applicant shall:

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States;

(3) Provide proof of liability insurance with amount to be no less than two hundred fifty thousand dollars in coverage and proof of workers' compensation insurance if required under chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

324.1110. EXAMINATION IS REQUIRED — BACKGROUND INVESTIGATION REQUIRED — WAIVER OF TESTING, SHOWING REQUIRED. — 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulations.

2. The department shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall outline basic qualification requirements for licensing as a private investigator and agency.

3. In the event requirements have been met so that testing has been waived, qualification shall be dependent on a showing of, for the two previous years:

(1) Registration and good standing as a business in this state; and

(2) Two hundred fifty thousand dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

324.1112. DENIAL OF A REQUEST FOR LICENSURE, WHEN. — The board of private investigator examiners may deny a request for a license if the applicant:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the application date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after the effective date of this section; or

(5) Knowingly made any false statement in the application.

324.1114. FEE REQUIRED — LICENSE FOR INDIVIDUALS ONLY, AGENCY LICENSE MUST BE APPLIED FOR SEPERATELY. — 1. Every application submitted under the provisions of sections 324.1100 to 324.1148 shall be accompanied by a fee as determined by the board as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than one year, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1148.

3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A private investigator license shall allow only the individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications.

324.1116. AGENCY HIRING CRITERIA. — A private investigator agency shall not hire any individual as an employee unless the individual:

(1) Is at least twenty-one years of age;

(2) Provides two recent photographs of themselves, of a type prescribed by the board of private investigator examiners;

(3) Has been fingerprinted in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo; and

(4) Complies with any other qualifications and requirements the board adopts by rule.

324.1118. LICENSE REQUIRED — PROHIBITED ACTS. — A private investigator agency shall not hire an individual, who is not licensed as a private investigator, as an employee if the individual:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the application date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after the effective date of this section; or

(5) Knowingly made any false statement in the application.

324.1120. SUPERVISION OF AGENCY EMPLOYEES REQUIRED, WHEN. — An individual, who is not licensed as a private investigator, hired as an employee by a private investigator agency shall work only under the direct supervision of the agency whose identification number appears on their application and shall work only for one agency at any one time.

324.1122. CONTINUING EDUCATION REQUIREMENTS. — A licensee shall successfully complete sixteen hours of continuing education units biennially. An individual not licensed as a private investigator who is hired as an employee by a private investigator agency shall successfully complete eight hours of continuing education units biennially. Such continuing education shall be relevant to the private investigator business and shall be approved by the board as such.

324.1124. FORM OF LICENSE, CONTENTS — POSTING REQUIREMENTS. — 1. The board of private investigator examiners shall determine the form of the license which shall include the:

(1) Name of the licensee;

(2) Name under which the licensee is to operate; and

(3) Number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design, and content as determined by the division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change of address, a licensee shall notify the board of the address change. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

324.1126. EXPIRATION OF LICENSE, WHEN — RENEWAL — LICENSEE RESPONSIBLE FOR GOOD CONDUCT OF EMPLOYEES. — 1. Any license issued under sections 324.1100 to 324.1148 shall expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) The applicant does not have to be tested again but must instead provide proof that the applicant successfully completed sixteen hours of continuing education credits; and

(4) Additional information may be required by rules and regulations adopted by the board of private investigator examiners.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 324.1100 to 324.1148. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

324.1128. INFORMATION REGARDING CRIMINAL OFFENSES, LICENSEE MAY DIVULGE, WHEN, EXCEPTIONS — PROHIBITED ACTS. — 1. Any licensee may divulge to the board, any law enforcement officer, prosecuting attorney, or such person's representative any information such person may acquire about any criminal offense. The licensee may instruct his or her client to divulge such information if the client is the victim, but such person shall not divulge to any other person, except as he or she may be required by law, any information acquired by such person at the direction of the employer or client for whom the information was obtained.

2. No licensee officer, director, partner, associate, or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government, or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence; or

(6) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if such video recording is made, it shall not be admissible as evidence in any civil proceeding.

324.1130. RECORDS TO BE MAINTAINED — REQUIRED FILINGS. — Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the location of the licensee's principal place of business.

The board may require the filing of other information for the purpose of identifying such principal place of business.

324.1132. ADVERTISING REQUIREMENTS — Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board of private investigator examiners. No individual or business can advertise as a private investigator, private detective, or private investigator agency without including their state private investigator or private investigator agency license number in the advertisement. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1148 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office. The fee for the additional license shall be one-half the cost of the fee for the agency's original license.

324.1134. LICENSURE SANCTIONS PERMITTED, PROCEDURE — COMPLAINT MAY BE FILED WITH ADMINISTRATIVE HEARING COMMISSION — DISCIPLINARY ACTION AUTHORIZED, WHEN. — 1. The board may suspend or refuse to renew any certificate of registration or authority, permit or license required under sections 324.1100 to 324.1148 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the suspension or refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Making any false statement or giving any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violating any provision of sections 324.1100 to 324.1148;

(3) Violating any rule of the board of private investigator examiners adopted under the authority contained in sections 324.1100 to 324.1148;

(4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(5) Committing, or permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court order or injunction in the course of business as a licensee;

(7) Using any letterhead, advertisement, or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state, or any political subdivision thereof;

(8) Using a name different from that under which such person is currently licensed in any advertisement, solicitation, or contract for business; or

(9) Committing any act which is grounds for denial of an application for a license under section 324.1112.

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the licensee's license is suspended or revoked by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

5. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds in subsection 1 of this section for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation under such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

324.1136. RECORD KEEPING REQUIREMENTS — INVESTIGATORY POWERS OF THE BOARD. — 1. Each private investigator or investigator agency operating under the provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board that is based on a complaint supported by oath or affirmation, which particularly describes the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made. Any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection under investigation.

2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed who fails

to obey such subpoena without reasonable cause, or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

324.1138. RULEMAKING AUTHORITY. — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1100 to 324.1148.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.1100 to 324.1148 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

324.1140. BOARD TO CERTIFY PERSONS QUALIFIED TO TRAIN PRIVATE INVESTIGATORS, QUALIFICATIONS — APPLICATION PROCEDURE — CERTIFICATE GRANTED, WHEN — EXPIRATION OF CERTIFICATE. — 1. The board of private investigator examiners shall certify persons who are qualified to train private investigators.

2. In order to be certified as a trainer under this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a private investigator agency; and

(3) Be personally licensed as a private investigator under sections 324.1100 to 324.1148 and qualified to train private investigators.

3. Persons wishing to become certified trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

4. A certificate shall be granted to a trainer if the board finds that the applicant:

(1) Meets the requirements of subsection 2 of this section;

(2) Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

(3) Has supplied all required information to the board; and

(4) Has paid the required fee.

5. The certificate issued under this section shall expire on the third year after the year in which it is issued and shall be renewable triennially upon application and payment of a fee.

324.1142. FALSIFICATION OF REQUIRED INFORMATION, PENALTIES. — Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted under sections 324.1100 to 324.1148 is guilty of a class D felony; and any person who violates any of the other provisions of sections 324.1100 to 324.1148 is guilty of a class A misdemeanor.

324.1144. RECIPROCITY. — The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private investigator agencies and licensed private investigators who meet or exceed the qualifications

established in sections 324.1100 to 324.1148 to operate across state lines under mutually acceptable terms.

324.1146. LICENSURE OF LAW ENFORCEMENT OFFICERS, QUALIFICATIONS. — Law enforcement officers who perform private investigations shall be licensed under this chapter subject to the following qualifications and limitations:

(1) The board may waive testing for law enforcement officers currently certified under existing peace officer standards and training requirements under chapter 590, RSMo;

(2) Law enforcement officers shall pay the appropriate licensing fees;

(3) Law enforcement officers shall assume individual liability for their actions while performing private investigations, complying with any insurance or bonding requirements imposed under sections 324.1100 to 324.1148;

(4) Law enforcement officers shall not utilize their official capacity in the course of a private investigation, including but not limited to:

(a) Accessing information intended only for police officials. Law enforcement officers shall comply with the legal limits on access to the information of private citizens;

(b) Utilizing any official item, such as a uniform, badge, or vehicle, while performing a private investigation. Law enforcement officers shall provide their own equipment;

(c) Utilizing law enforcement officer arrest and use of force standards. Law enforcement officers shall use private citizen arrest and use of force standards while operating as a private investigator;

(5) Law enforcement officers shall produce evidence of training and experience concerning the legal limits imposed on private investigations or pass a test on such subject produced by the board; and

(6) The provisions of sections 324.1100 to 324.1148 shall not apply to law enforcement officers who provide only private security services and not private investigator services.

324.1148. VIOLATIONS, PENALTY. — Any person who violates sections 324.1100 to 324.1148 is guilty of a class A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1148 is a class D felony.

327.011. DEFINITIONS. — As used in this chapter, the following words and terms shall have the meanings indicated:

(1) "Accredited degree program from a school of architecture", a degree from any school or other institution which teaches architecture and whose curricula for the degree in question have been, at the time in question, certified as accredited by the National Architectural Accrediting Board;

(2) "Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(3) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

(4) "Architect", any person authorized pursuant to the provisions of this chapter to practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

(5) "Board", the Missouri board for architects, professional engineers, professional land surveyors and landscape architects;

(6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) **[**"Department", the department of economic development;

(8) "Division", the division of professional registration in the department of economic development;

(9)**]** "Landscape architect", any person licensed pursuant to the provisions of sections 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special knowledge and the use of biological, physical, mathematical and social sciences and the principles and methods of analysis and design of the land, has demonstrated knowledge and ability in such areas, and has been duly licensed as a landscape architect by the board on the basis of professional education, examination and experience in landscape architecture;

(8) "Licensee", a person licensed to practice any profession regulated under this chapter or a corporation authorized to practice any such profession;

[(10)**]** **(9)** "Partnership", any partnership or limited liability partnership;

[(11)**]** **(10)** "Person", any person, corporation, firm, partnership, association or other entity;

[(12)**]** **(11)** "Professional engineer", any person authorized pursuant to the provisions of this chapter to practice as a professional engineer in Missouri, as the practice of engineering is defined in section 327.181;

[(13)**]** **(12)** "Professional land surveyor", any person authorized pursuant to the provisions of this chapter to practice as a professional land surveyor in Missouri as the practice of land surveying is defined in section 327.272.

327.076. LICENSURE REQUIRED, PENALTY FOR VIOLATION — COMPLAINT PROCEDURE. — 1. Any person who practices architecture, engineering, land surveying, or landscape architecture, as defined in sections 327.011 to 327.635, or who holds himself or herself out as able to practice such profession and who is not the holder of a currently valid license or certificate of authority in Missouri, and who is not exempt from holding such a license or certificate, is guilty of a class A misdemeanor. As used in this section "practice" shall not include the rendering of opinions or giving of testimony in a civil or criminal proceeding by a licensed professional.

2. The board may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to render or engage in the practice of architecture, professional engineering, land surveying, or landscape architecture;

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is licensed or holds a certificate of authority to practice architecture, professional engineering, land surveying, or landscape architecture;

(3) Presents or attempts to use another person's license, seal, or certificate of authority as his or her own;

(4) Attempts to use an expired, suspended, revoked, or nonexistent license or certificate of authority;

(5) Affixes his or her or another architect's, engineer's, land surveyor's, or landscape architect's seal on any plans, drawings, specifications or reports which have not been prepared by such person or under such person's immediate personal supervision care;

(6) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure in this state or any other state or jurisdiction;

(7) Knowingly aids or abets an unlicensed or unauthorized person who engages in any prohibited activity identified in this subsection;

(8) Violates any provision of the code of professional conduct or other rule adopted by the board; or

(9) Violates any provision of subsection 2 of section 327.441.

3. When reviewing complaints against unlicensed persons, the board may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

4. If the board files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, either singularly or in combination with other provisions of this chapter, impose a civil penalty as provided for in section 327.077 against the person named in the complaint.

327.077. CIVIL PENALTIES MAY BE IMPOSED, WHEN — AMOUNT, LIMIT, DETERMINATION OF — SETTLEMENT REQUIREMENTS. — 1. In disciplinary actions against licensed or unlicensed persons, the board may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of fact and conclusions of law by the administrative hearing commission have been delivered to the board in accordance with section 621.110, RSMo. Further, no civil penalty shall commence until a formal meeting and vote by the board has been taken to impose such a penalty.

2. A civil penalty imposed under this section shall not exceed five thousand dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial deterrent to the violation;

(2) The circumstances leading to the violation;

(3) The severity of the violation and the risk of harm to the public;

(4) The economic benefits gained by the violator as a result of noncompliance;

(5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board. If the penalty is not timely paid, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the board under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for refusing to renew or denying reinstatement of a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

327.181. PRACTICE AS PROFESSIONAL ENGINEER DEFINED — USE OF TITLES, RESTRICTIONS. — **1.** Any person practices in Missouri as a professional engineer who renders or offers to render or holds himself or herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to engineering work and the inspection of construction for the purpose of compliance with drawings and specifications, any of which embraces such service or work either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems or projects and including such architectural work as is incidental to the practice of engineering; or who uses the title "professional engineer" or "consulting engineer" or the word "engineer" alone or preceded by any word indicating or implying that such person is or holds himself or herself out to be a professional engineer, or who shall use any word or words, letters, figures, degrees, titles or other description indicating or implying that such person is a professional engineer or is willing or able to practice engineering.

2. Notwithstanding any provision of subsection 1 of this section, any person using the word "engineer", "engineers", or "engineering", alone or preceded by any word, or in combination with any words, may do so without being subject to disciplinary action by the board so long as such use is reflective of that person's profession or vocation and is clearly not indicating or implying that such person is holding himself or herself out as being a professional engineer or is willing or able to practice engineering as defined in this section.

327.441. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE OR CERTIFICATE, GROUNDS FOR. — 1. The board may refuse to issue any license or certificate of authority required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license or certificate of authority required by this chapter or any person who has failed to renew or has surrendered such person's license or certificate of authority, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license or certificate of authority issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a license or certificate of authority, or allowing any person to use his or her license or certificate of authority, or diploma from any school;

(8) Disciplinary action against the holder of a license or a certificate of authority, or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not licensed and currently eligible to practice pursuant to this chapter;

(11) Issuance of a professional license or a certificate of authority based upon a material mistake of fact;

(12) Failure to display a valid license or certificate of authority if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, **or order a civil penalty under section 327.077,** or revoke the license or certificate of authority of the person named in the complaint.

331.010. PRACTICE OF CHIROPRACTIC, DEFINITION. — 1. The "practice of chiropractic" is defined as the science and art of examination, diagnosis, adjustment, manipulation and treatment **[**of malpositioned articulations and structures of the body,**]** both in inpatient and outpatient settings**, by those methods commonly taught in any chiropractic college or chiropractic program in a university which has been accredited by the Council on Chiropractic Education, its successor entity or approved by the board**. **[**The adjustment, manipulation, or treatment shall be directed toward restoring and maintaining the normal neuromuscular and musculoskeletal function and health.**]** It shall not include the use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration or prescribing of any drug or medicine nor the practice of medicine. The practice of chiropractic is declared not to be the practice of medicine and operative surgery or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.

2. **[**A licensed chiropractor may practice chiropractic as defined in subsection 1 of this section by those methods commonly taught in any chiropractic college recognized and approved by the board.

3. Chiropractors may advise and instruct patients in all matters pertaining to hygiene, nutrition, and sanitary measures as taught in any chiropractic college recognized and approved by the board.

4.**]** The practice of chiropractic may include meridian therapy/acupressure/acupuncture with certification as required by the board.

334.120. BOARD CREATED — MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION. — 1. There is hereby created and established a board to be known as "The

State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, **at least** five of whom shall be graduates of professional schools **[**approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education and**]** **accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and at least** two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

335.016. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses. Advanced practice nurses and only such

individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "Executive director", a qualified individual employed by the board as executive secretary or otherwise to administer the provisions of this chapter under the board's direction. Such person employed as executive director shall not be a member of the board;

(6) "Inactive nurse", as defined by rule pursuant to section 335.061;

(7) **"Lapsed license status", as defined by rule under section 335.061;**

(8) [A**]** "Licensed practical nurse" or "practical nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of practical nursing;

[(8)**] (9)** "Licensure", the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;

[(9)**] (10)** "Practical nursing", the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;

[(10)**] (11)** "Professional nursing", the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:

(a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;

(c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;

(d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;

(e) The teaching and supervision of other persons in the performance of any of the foregoing;

[(11)**] (12)** A "registered professional nurse" or "registered nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of professional nursing**;**

(13) "Retired license status", any person licensed in this state under this chapter who retires from such practice. Such person shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which the licensee retired from such practice, an intent to retire from the practice for at least two years, and such other facts as tend to verify the retirement as the board may deem necessary; but if the licensee thereafter reengages in the practice, the licensee shall renew his or her license with the board as provided by this chapter and by rule and regulation.

335.036. DUTIES OF BOARD — FEES SET, HOW — FUND, SOURCE, USE, FUNDS TRANSFERRED FROM, WHEN — RULEMAKING. — 1. The board shall:

(1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as are necessary to administer the provisions of sections 335.011 to 335.096;

(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as "approved" such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of economic development**;**

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes.

4. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

335.066. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE, GROUNDS FOR, CIVIL IMMUNITY FOR PROVIDING INFORMATION — COMPLAINT PROCEDURES. — 1. The board

may refuse to issue **or reinstate** any certificate of registration or authority, permit or license required pursuant to **[**sections 335.011 to 335.096**] chapter 335** for one or any combination of causes stated in subsection 2 of this section **or the board may, as a condition to issuing or reinstating any such permit or license, require a person to submit himself or herself for identification, intervention, treatment, or rehabilitation by the impaired nurse program as provided in section 335.067**. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 335.011 to 335.096;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 335.011 to 335.096, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in obtaining permission to take any examination given or required pursuant to sections 335.011 to 335.096;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 335.011 to 335.096;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to 335.096;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 335.011 to 335.096 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 335.011 to 335.096 who is not registered and currently eligible to practice pursuant to sections 335.011 to 335.096;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(15) Placement on an employee disqualification list or other related restriction or finding pertaining to employment within a health-related profession issued by any state or federal government or agency following final disposition by such state or federal government or agency**;**

(16) Failure to successfully complete the impaired nurse program.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

4. **For any hearing before the full board, the board shall cause the notice of the hearing to be served upon such licensee in person or by certified mail to the licensee at the licensee's last known address. If service cannot be accomplished in person or by certified mail, notice by publication as described in subsection 3 of section 506.160, RSMo, shall be allowed; any representative of the board is authorized to act as a court or judge would in that section; any employee of the board is authorized to act as a clerk would in that section.**

5. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of an applicant for the first time.

[5.**]** **6.** The board may notify the proper licensing authority of any other state concerning the final disciplinary action determined by the board on a license in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

[6.**]** **7.** Any person, organization, association or corporation who reports or provides information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

8. If the board concludes that a nurse has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the nurse's license. Within fifteen days after service of the complaint on the nurse, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the nurse appear to constitute a clear and present danger to the public health and safety which justify that the nurse's license be immediately restricted or suspended. The burden of proving that a nurse is a clear and present danger to the public health and safety shall be upon the state board of nursing. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

9. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the nurse's license, such temporary authority of the board shall become final authority if there is no request by the nurse for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the nurse named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

10. If the administrative hearing commission refuses to grant temporary authority to the board or restrict or suspend the nurse's license under subsection 8 of this section,

such dismissal shall not bar the board from initiating a subsequent disciplinary action on the same grounds.

335.067. IMPAIRED NURSE PROGRAM MAY BE ESTABLISHED BY THE BOARD, PURPOSE OF PROGRAM — CONTRACTS — IMMUNITY FROM LIABILITY — CONFIDENTIALITY OF RECORDS. — 1. The state board of nursing may establish an impaired nurse program to promote the early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reasons of illness, substance abuse, or as a result of any mental condition. This program shall be available to anyone holding a current license and may be entered voluntarily, as part of an agreement with the board of nursing, or as a condition of a disciplinary order entered by the board of nursing.

2. The board may enter into a contractual agreement with a nonprofit corporation or a nursing association for the purpose of creating, supporting, and maintaining a program to be designated as the impaired nurse program. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any program formed pursuant to this section.

3. The board may expend appropriated funds necessary to provide for operational expenses of the program formed pursuant to this section.

4. Any member of the program, as well as any administrator, staff member, consultant, agent, or employee of the program, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the program, or by any individual member of the program.

5. All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the program, as well as communications to or from the program, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the program which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

6. All records and proceedings of the program which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the program and its members only in the exercise of the proper function of the program and shall not be considered public records under chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as provided in subsection 7 of this section.

7. The program shall disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired licensee and only to those persons or organizations with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) A licensee has breached his or her contract with the program. In this instance, the breach may be reported only to the board of nursing; or

(4) The information is subject to a court order.

8. When pursuing discipline against a licensed practical nurse, registered nurse, or advanced practice registered nurse for violating one or more causes stated in subsection 2 of section 335.066, the board may, if the violation is related to chemical dependency or mental health, require that the licensed practical nurse, registered nurse, or advanced practice registered nurse complete the impaired nurse program under such terms and conditions as are agreed to by the board and the licensee for a period not to exceed five years. If the licensee violates a term or condition of an impaired nurse program agreement entered into under this section, the board may elect to pursue discipline against

the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the impaired nurse program agreement, or for any subsequent violation of subsection 2 of section 335.066. While the licensee participates in the impaired nurse program, the time limitations of section 620.154, RSMo, shall toll under subsection 7 of section 620.154, RSMo. All records pertaining to the impaired nurse program agreements are confidential and may only be released under subdivision (7) of subsection 14 of section 620.010, RSMo.

9. The board may disclose information and records to the impaired nurse program to assist the program in the identification, intervention, treatment, and rehabilitation of licensed practical nurses, registered nurses, or advanced practice registered nurses who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The program shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records closed to the public under chapter 620, RSMo.

335.068. COMPLAINTS TO BE SEALED RECORDS, WHEN. — 1. **[**If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 335.066 have been violated. Any case file documentation that does not result in the board filing an action pursuant to subsection 2 of section 335.066 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 335.066 have been violated.

2. Upon written request of the nurse subject to a complaint, prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action pursuant to subsection 2 of section 335.066, the board and the division of professional registration shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;**] If the board determines that a complaint does not constitute a violation of the nursing practice act or that the complaint is unsubstantiated, then that complaint, and all documentation related to it, shall be deemed a sealed record. If the administrative hearing commission or a court of competent jurisdiction makes a finding that an action brought by the board does not constitute sufficient grounds to discipline the license of a licensee, that complaint, and all documentation related to it, shall be deemed a sealed record.**

2. For purposes of this section, a "sealed record" shall mean that the complaint to which it refers shall be deemed to never have occurred. The licensee may properly reply that no record exists with respect to such complaint upon any inquiry in the matter. A sealed record shall not be disclosed or reported to any other state agency, other board of nursing, or any other organization without express, written permission of the licensee.

3. Upon determination by the board that a complaint is not a violation of the nursing practice act or that the complaint is unsubstantiated, or upon the conclusion of litigation resulting in a finding of insufficient grounds to impose discipline upon a licensee's license, the board and the division of professional registration shall, in a timely fashion:

[(2)**] (1)** Notify any other licensing board in another state or any national registry regarding the board's action if they have been previously notified of the complaint; and

[(3)**] (2)** Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated**[**, that the board has taken the requested action,**] or that litigation resulted in a finding that there are insufficient grounds to discipline the licensee's license, that the board has sealed all records concerning the complaint,** and notify the licensee of the provisions of subsection **[**3**] 4** of this section.

[3.**] 4.** Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 **[**or 2**]** of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their nursing professions.

5. Nothing contained in this section shall prevent the board of nursing from maintaining such records as to ensure that all complaints received by the board are properly investigated and reviewed by the board and the results of that investigation are reported to the appropriate parties.

335.076. TITLES, R.N., L.P.N., AND APRN WHO MAY USE. — 1. Any person who holds a license to practice professional nursing in this state may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person **[**may**]** **shall** use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered professional nurse.

2. Any person who holds a license to practice practical nursing in this state may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person **[**may**]** **shall** use the title "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.

3. **Any person who holds a license or recognition to practice advanced practice nursing in this state may use the title "Advanced Practice Registered Nurse", and the abbreviation "APRN", and any other title designations appearing on his or her license. No other person shall use the title "Advanced Practice Registered Nurse" or the abbreviation "APRN". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is an advanced practice registered nurse.**

4. No person shall practice or offer to practice professional nursing **[**or**],** practical nursing**, or advanced practice nursing** in this state **[**for compensation**]** or use any title, sign, abbreviation, card, or device to indicate that such person is a practicing professional nurse **[**or**],** practical nurse**, or advanced practice nurse** unless he **or she** has been duly licensed under the provisions of **[**sections 335.011 to 335.096**]** **this chapter**.

5. In the interest of public safety and consumer awareness, it is unlawful for any person to use the title "nurse" in reference to himself or herself in any capacity, except individuals who are or have been licensed as a registered nurse, licensed practical nurse, or advanced practice registered nurse under this chapter.

335.096. PENALTY FOR VIOLATION. — Any person who violates any of the provisions of **[**sections 335.011 to 335.096**]** **chapter 335** is guilty of a class **[**A misdemeanor**]** **D felony** and, upon conviction, shall be punished as provided by law.

335.097. BOARD OF NURSING, POWERS, ENFORCEMENT. — 1. The president or secretary of the board of nursing may administer oaths, issue subpoenas duces tecum and require production of documents and records. Subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The board may enforce its subpoenas duces tecum by applying to a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to comply with a subpoena duces tecum to show cause why such subpoena should not be enforced, which such order and a copy of the application therefor shall be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the subpoena duces tecum in the same manner as though the subpoena duces tecum had been issued in a civil case in the circuit court.

3. Reports made to the board under the mandated reporting requirements as defined in chapter 383, RSMo, shall not be deemed a violation of the federal health insurance portability and accountability act (HIPAA) and the privacy rules located in the act because the Missouri state board of nursing qualifies as a health oversight agency as defined in the HIPAA privacy rules.

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or **[**public or nonprofit**]** **in any** agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

336.010. DEFINING PRACTICE OF OPTOMETRY — OTHER DEFINITIONS. — **[**Any one or any combination of the following practices constitutes the "practice of optometry":

(1) The examination of the human eye, without the use of drugs, medicines or surgery, to ascertain the presence of defects or abnormal conditions which can be corrected by the use of lenses, prisms or ocular exercises;

(2) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye or the range of power of vision of the human eye;

(3) The prescription or adaptation without the use of drugs, medicines or surgery, of lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye or to adjust the human eye to the conditions of special occupation.**]**

1. The "practice of optometry" is the examination, diagnosis, treatment, and preventative care of the eye, adnexa, and vision. The practice includes, but is not limited to:

(1) The examination of the eye, adnexa, and vision to determine the accommodative and refractive states, visual perception, conditions, and diseases;

(2) The diagnosis and treatment of conditions or diseases of the eye, adnexa, and vision;

(3) The performance of diagnostic procedures and ordering of laboratory and imaging tests for the diagnosis of vision and conditions and diseases of the eye and adnexa;

(4) The prescription and administration of pharmaceutical agents, excluding injectable agents, for the purpose of examination, diagnosis, and treatment of vision and conditions or diseases of the eye and adnexa;

(5) The removal of superficial foreign bodies from the eye or adnexa;

(6) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye;

(7) The prescription or adaptation of lenses, prisms, devices, or ocular exercises to correct defects or abnormal conditions of the human eye or vision or to adjust the human eye to special conditions;

(8) The prescription and fitting of ophthalmic or contact lenses and devices;

(9) The prescription and administration of vision therapy; and

(10) The prescription and administration of low vision care.

2. An optometrist may not perform surgery, including the use of lasers for treatment of any disease or condition or for the correction of refractive error.

3. As used in this chapter, except as the context may otherwise require, the following terms mean:

(1) "Eye", the human eye;

(2) "Adnexa", all structures adjacent to the eye and the conjunctiva, lids, lashes, and lacrimal system;

(3) "Board", the Missouri state board of optometry;

(4) "Diagnostic pharmaceutical agents", topically applied pharmaceuticals used for the purpose of conducting an examination of the eye, adnexa, and vision;

(5) "Low vision care", the examination, treatment, and management of patients with visual impairments not treatable by conventional eyewear or contact lenses and may include a vision rehabilitation program to enhance remaining vision skills;

(6) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination of drugs that assist the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye, adnexa, and vision;

(7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and vision;

(8) "Vision therapy", a treatment regiment to improve a patient's diagnosed visual dysfunctions, prevent the development of visual problems, or enhance visual performance to meet the defined needs of the patient.

336.020. UNLAWFUL TO PRACTICE OPTOMETRY WITHOUT LICENSE. — It shall be unlawful for any person to practice **[**optometry or**], to** attempt to practice **[**optometry**]**, or to **offer to practice optometry, or to** be employed by **[**a**] any person,** corporation, partnership, **[**or**]** association **[**for the purpose of practicing optometry**], or other entity that practice or attempts to practice** without a **[**certificate of registration**] license** as **[**a registered**] an** optometrist issued by the **[**state**]** board **[**of optometry**]**. **Nothing in this section shall be construed to prohibit a person licensed or registered under chapter 334, RSMo, whose license is in good standing from acting within the scope of his or her practice or a person licensed as an optometrist in any state to serve as an expert witness in a civil, criminal, or administrative proceeding.**

336.030. PERSONS QUALIFIED TO RECEIVE CERTIFICATE OF REGISTRATION. — 1. A person is qualified to receive a **[**certificate of registration as a registered**] license as an** optometrist:

(1) Who is at least twenty-one years of age;

(2) Who is of good moral character **[**and**]**;

(3) Who has graduated from a **college or** school of optometry approved by the **[**state**]** board **[**of optometry**]**; **and**

(4) Who has [passed a satisfactory examination conducted by or approved by the state board of optometry to determine his fitness to receive a certificate of registration as a registered optometrist] **met either of the following conditions:**

(a) Has passed an examination satisfactory to, conducted by, or approved by the board to determine his or her fitness to receive a license as an optometrist with pharmaceutical certification and met the requirements of licensure as may be required by rule and regulation; or

(b) Has been licensed and has practiced for at least three years in the five years immediately preceding the date of application with pharmaceutical certification in another state, territory, country, or province in which the requirements are substantially equivalent to the requirements in this state and has satisfactorily completed any practical examination or any examination on Missouri laws as may be required by rule and regulation.

2. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for the authority to practice optometry in this state.

336.040. APPLICATIONS, FORM, CONTENTS, FEES. — Every person who desires to obtain a [certificate of registration] **license to practice optometry** shall apply [therefor] to the [state] board [of optometry], in writing, on [blanks] **forms** prepared and furnished by the [state] board [of optometry]. [Each] **The** application shall [contain proof of the particular] **state the required** qualifications [required] of the applicant, [shall contain a statement that it is] **that the representations are** made under oath or affirmation and [that its representations] are true and correct to the **applicant's** best knowledge [and belief of the person signing same], subject to the penalties of making a false affidavit or declaration and shall be accompanied by the examination fee.

336.050. EXAMINATIONS TO BE HELD — TO INCLUDE WHAT. — The [state] board [of optometry] shall hold examinations of applicants for [certificates of registration as registered optometrists] **a license as an optometrist** at such times and places as it may determine. The examination of applicants for [certificates of registration as registered optometrists] **a license as an optometrist** may include both practical demonstrations and written and oral tests, and shall embrace the subjects normally taught in schools of optometry approved by the [state] board [of optometry].

336.060. LICENSES TO BE ISSUED, WHEN. — Whenever the provisions of this chapter have been complied with, and upon payment of the [certificate] **license** fee, the [state] board [of optometry] shall issue a [certificate of registration as a registered optometrist] **license as an optometrist**.

336.070. LICENSE TO BE DISPLAYED. — Every holder of [a certificate of registration] **an optometry license** shall display [it] **the license** in a conspicuous place in his **or her** principal office, place of business or employment. Whenever a [registered] **licensed** optometrist practices optometry [outside of, or] away from[,] his **or her** principal office, [places of business or employment, he] **the licensee** shall [deliver to each patient in his care a certificate of identification or provide other identification as authorized by rule and regulation] **obtain a duplicate renewal license from the board and display it in clear view of the public**.

336.080. RENEWAL OF LICENSE — REQUIREMENTS. — **1.** Every [registered] **licensed** optometrist who continues in active practice or service shall, on or before the renewal date, renew his [certificate of registration] **or her license** and pay the required renewal fee and present satisfactory evidence to the [state] board [of optometry] of his **or her** attendance for a minimum

of [eight hours each year] **thirty-two hours of board-approved continuing education, or their equivalent** during the preceding [licensing period at educational optometric programs, or their equivalent, that have been approved by the board] **two-year continuing education reporting period as established by rule and regulation**. The [attendance or equivalent] **continuing education requirement** may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation. The board shall not reject any such application if approved programs are not available within the state of Missouri. Every [certificate of registration] **license** which has not been renewed on or before the renewal date shall expire.

2. Any [registered] **licensed** optometrist who permits his [certificate] **or her license** to expire may renew it within five years of expiration upon payment of the required [restoration] **reactivation** fee and presentation of satisfactory evidence to the [state] board [of optometry] of his **or her** attendance for a minimum of [twenty-four] **forty-eight** hours **of board-approved continuing education, or their equivalent,** during the five years [at educational programs, or their equivalent, that have been approved by the board. The attendance or equivalent may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation].

336.140. BOARD MEETINGS — COMPENSATION OF BOARD MEMBERS — FUND CREATED, USE, TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. The board shall hold meetings for the examination of applicants for registration and the transaction of other business pertaining to its duties at least once in six months. [The board shall give thirty days' public notice of the time and place of this meeting.] Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All fees payable under this chapter shall be collected by the division of professional registration, which shall transmit the same to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in administering the provisions of this chapter shall be appropriated and paid from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

336.160. BOARD MAY PROMULGATE RULES AND EMPLOY PERSONNEL — FEES, AMOUNT, HOW SET. — 1. The [state] board [of optometry] may adopt reasonable rules and regulations within the scope and terms of this chapter for the proper administration and enforcement thereof. It may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it deems necessary within appropriations therefor.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

336.220. PHARMACEUTICALS, CERTIFICATION FOR ADMINISTERING REQUIRED — REFERRAL TO PHYSICIAN REQUIRED, WHEN — STANDARD OF CARE — RULEMAKING AUTHORITY. — 1. [The state board of optometry may adopt reasonable rules and regulations

providing for the examination and certification of registered optometrists who apply to the board for authority to administer pharmaceutical agents in the practice of optometry. Such pharmaceutical agents may be "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical agents". As used in this section, the term "diagnostic pharmaceutical agents" means those topically applied pharmaceuticals used for the purpose of conducting an examination upon the eye or adnexa, and the term "therapeutic pharmaceutical agents" means those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye or the adnexa.

2. No registered optometrist shall administer diagnostic pharmaceutical agents or therapeutic pharmaceutical agents in the practice of optometry unless such person submits to the state board of optometry evidence of satisfactory completion of: a course of instruction in general and ocular pharmacology; which includes at least one hundred hours of approved, supervised, clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa in a program supervised by a board-certified ophthalmologist; and such other educational requirements or examination as may be required by the board, and is certified by the board as qualified to administer diagnostic pharmaceutical agents and therapeutic pharmaceutical agents in the practice of optometry. An optometrist may not be certified by the board to administer therapeutic pharmaceutical agents unless the optometrist is certified to administer diagnostic pharmaceutical agents. The board shall not approve a course of instruction in general or ocular pharmacology unless it is taught by an institution utilizing both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education or its successors and the transcript for the course of instruction is certified to the board by the institution as being comparable in content to those courses in general and ocular pharmacology required by other licensing boards whose licenses or registrants are permitted the administration of pharmaceutical agents in the course of their professional practice for either diagnostic or therapeutic purposes or both.

3. In issuing a certificate of registration or a renewal of a certificate of registration, the state board of optometry shall:

(1) State upon the certificate of an optometrist certified by the board to administer diagnostic pharmaceutical agents in the practice of optometry that the optometrist is so certified; and

(2) State upon the certificate of an optometrist certified by the board to administer therapeutic pharmaceutical agents in the practice of optometry that the optometrist is so certified.

4. Any provision of section 336.010 to the contrary notwithstanding, a registered optometrist who is examined and so certified by the state board of optometry in the administration of diagnostic pharmaceutical agents or therapeutic pharmaceutical agents may administer those agents for which he is certified in the practice of optometry. An optometrist's prescriptions for therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an optometrist the provisions of section 338.059, RSMo, shall apply.

5. An optometrist certified in the administration of therapeutic pharmaceutical agents may:

(1) Administer and prescribe pharmaceutical agents, excluding injectable agents, for the diagnosis and treatment of conditions or diseases of the eye or adnexa; and

(2) Perform diagnostic procedures and order laboratory and imaging tests for the diagnosis of conditions or diseases of the eye or adnexa.

6. Each optometrist certified in the administration of therapeutic pharmaceutical agents shall, within one year of August 28, 1995, complete a course of instruction approved by the board that includes at least twenty-four hours of training in the treatment of glaucoma. The board shall not approve a course of instruction in the treatment of glaucoma unless it is taught by an institution that is accredited by a regional or professional accrediting organization that is recognized by the United States Department of Education or its successor and the content for the

course of instruction is certified to the board by the institution as being comparable in the content to those courses in the treatment of glaucoma required by other licensing boards whose licensees or registrants are permitted to treat glaucoma in the course of their professional practice; except that, any optometrist initially licensed in Missouri after December 31, 1990, who had previously passed the examination of the National Board of Examiners in Optometry in the year 1990, or anytime after such year, shall be exempt from the requirement of completing the course of instruction in the treatment of glaucoma required by this subsection. Until December 31, 1999, as a condition for the annual renewal of the certificate of registration, each optometrist certified in the administration of therapeutic pharmaceutical agents shall, as a condition for the annual renewal of certification through December 31, 1999, complete a continuing course of instruction of at least six hours in the treatment of glaucoma as approved by the board; provided that, such six hours may be credited against the initial course of at least twenty-four hours required by this section and against the educational optometric program of at least eight hours required by section 336.080.

7. An optometrist certified by the board in the administration of therapeutic pharmaceutical agents may remove superficial foreign bodies from the eye and adnexa. An optometrist may not perform surgery, including the use of lasers for treatment of any disease or condition or for the correction of refractive error. An optometrist certified to use pharmaceutical agents as provided in this section shall be held to the same standard of care in the use of such agents in the optometrist's diagnosis and treatment as are physicians, licensed by the Missouri state board of registration for the healing arts, who exercise that degree of skill and proficiency commonly exercised by ordinary, skillful, careful and prudent physicians and surgeons engaged in the practice of medicine.

8. Any optometrist authorized by the board to administer diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity, which requires medical treatment, further medical diagnosis, or further refraction. This referral is not required on known or previously diagnosed conditions. The record of the referral in the optometrist's notes shall have the standing of any business record. Any optometrist violating this section shall be subject to the provisions of section 336.110.**] Notwithstanding the provisions of subsection 1 of section 336.010, any optometrist who is not certified to use either diagnostic or therapeutic pharmaceutical agents shall continue to be prohibited from administering, dispensing, or prescribing the respective pharmaceutical agents unless the optometrist has completed an approved course of study and has been certified by the board. Such status shall be noted on the license at each renewal.**

2. Any optometrist authorized by the board to administer only diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity, which requires medical treatment, further medical diagnosis, or further refraction. This referral is not required on known or previously diagnosed conditions. The record of the referral in the optometrist's notes shall have the standing of any business record. Any optometrist violating this section shall be subject to the provisions of section 336.110.

3. An optometrist's prescriptions for therapeutic pharmaceutical agents shall be dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an optometrist, the provisions of section 338.059, RSMo, shall apply.

4. An optometrist certified to use pharmaceutical agents shall be held to the standard of care in the use of pharmaceutical agents in the optometrist's diagnosis and treatment as are physicians licensed by the Missouri State Board of Registration for the Healing Arts, who exercise that degree of skill and learning ordinarily used under the same or similar circumstances by physicians and surgeons engaged in the practice of medicine.

5. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for authority to administer and prescribe pharmaceutical agents in the practice of optometry.

336.225. ADVERTISING REQUIREMENTS. — **[**Notwithstanding any other provision of law, any written or broadcast advertising for eye exam services whether regional or national by any optical firm shall not be required to list the name of the optometrist in the advertisement provided those optometrists practicing under a trade name at a specific location shall be identified to any person by having the optometrist's name prominently displayed at such specific location. All eye exam services provided by any optical firm must be provided by a person in accordance with the provisions contained in section 336.030.**]** **Any optometrist or any person, firm, or corporation employing or associated with an optometrist may advertise the availability of optometric service. The optometrist shall be responsible for ensuring that his or her name is prominently displayed at all of his or her practice locations. All eye examination services shall be provided by a person in accordance with the provisions of section 336.030.**

337.600. DEFINITIONS. — As used in sections 337.600 to 337.689, the following terms mean:

(1) **"Advanced macro social worker", the applications of social work theory, knowledge, methods, principles, values, and ethics; and the professional use of self to community and organizational systems, systemic and macrocosm issues, and other indirect nonclinical services; specialized knowledge and advanced practice skills in case management, information and referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research, advocacy, social planning and policy development, community organization, and the development, implementation and administration of policies, programs, and activities. A licensed advanced macro social worker may not treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed clinical social worker; or diagnose a mental disorder;**

(2) "Clinical social work", the application of **social work theory, knowledge, values,** methods, principles, and techniques of case work, group work, client-centered advocacy, **[**community organization,**]** administration, **[**planning, evaluation,**]** consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions;

(3) "Committee", the state committee for social workers established in section 337.622;

[(2)**]** **(4)** "Department", the Missouri department of economic development;

[(3)**]** **(5)** "Director", the director of the division of professional registration **[**in the department of economic development**]**;

[(4)**]** **(6)** "Division", the division of professional registration;

[(5)**]** **(7)** "Independent practice", any practice of social workers outside of an organized setting such as a social, medical, or governmental agency in which a social worker assumes responsibility and accountability for services required;

(8) "Licensed advanced macro social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as an advanced macro social worker, and who holds a current valid license to practice as an advanced macro social worker;

(9) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or

the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

[(6)**]** **(10)** "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(11) "Licensed master social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a master social worker, and who holds a current valid license to practice as a master social worker. A licensed master social worker may not treat mental or emotional disorders, provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(12) "Master social work", the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations, communities, institutions, government agencies, or corporations. The practice includes the applications of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, information and referral, counseling, client education, supervision, consultation, education, research, advocacy, community organization and development, planning, evaluation, implementation and administration of policies, programs, and activities. Under supervision as provided in this section, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers;

(13) "Practice of advanced macro social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of advanced practice macro social work;

(14) "Practice of baccalaureate social work", rendering, offering to render, or supervising those who render to individuals, families, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

[(7)**]** **(15)** "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(16) "Practice of master social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of master social work;

[(8)**]** **(17)** "Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice clinical social work, as defined by rule;

(18) "Qualified advanced macro supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(19) "Qualified baccalaureate supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced macro supervisor, or a licensed baccalaureate social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social workers; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(20) "Qualified clinical supervisor", any licensed clinical social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant uninterrupted since August 28, 2004, or a minimum of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

[(9)**]** **(21)** "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current **[**baccalaureate or clinical**]** social worker license as set forth in sections 337.600 to 337.689.

337.603. LICENSE REQUIRED — EXEMPTIONS FROM LICENSURE. — No person shall use the title of "licensed clinical social worker", "clinical social worker" or "provisional licensed clinical social worker" **[**and**], or** engage in the practice of clinical social work in this state**,** unless the person is licensed as required by the provisions of sections 337.600 to **[**337.639**]** **337.689**. Only individuals who are licensed clinical social workers shall practice clinical social work. Sections 337.600 to **[**337.639**]** **337.689** shall not apply to:

(1) Any person registered, certificated, or licensed by this state, another state, or any recognized national certification agent acceptable to the committee to practice any other occupation or profession while rendering services similar in nature to clinical social work in the performance of the occupation or profession which the person is registered, certificated, or licensed; and

(2) The practice of any social worker who is employed by any agency or department of the state of Missouri while discharging the person's duties in that capacity.

337.604. TITLE OF SOCIAL WORKER, REQUIREMENTS TO USE TITLE. — 1. No person shall hold himself or herself out to be a "social worker" unless such person has:

(1) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(2) Received a doctorate or Ph.D. in social work; or

(3) A current **[**baccalaureate or clinical**]** social worker license as set forth in sections 337.600 to 337.689.

2. No government entities, public or private agencies or organizations in the state shall use the title "social worker" or any form of the title for volunteer or employment positions or within contracts for services, documents, manuals, or reference material effective January 1, 2004, unless the volunteers or employees in those positions meet the criteria set forth in subdivision **[**(8)**] (17)** of section 337.600 or subsection 1 of this section.

337.612. APPLICATIONS, CONTENTS, FEE — FUND ESTABLISHED — RENEWAL, FEE — LOST CERTIFICATE, HOW REPLACED. — 1. Applications for licensure as a clinical social worker**, baccalaureate social worker, advanced macro social worker or master social worker** shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.600 to **[**337.639**] 337.689** authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.600 to **[**337.639**] 337.689**. All fees provided for in sections 337.600 to **[**337.639**] 337.689** shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Clinical Social Workers Fund". **After August 28, 2007, the "Clinical Social Workers Fund" shall be called the "Licensed Social Workers Fund" and after such date all references in state law to the "Clinical Social Workers Fund" shall be considered references to the "Licensed Social Workers Fund".**

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the clinical social workers fund for the preceding fiscal year or, if the committee requires by rule renewal less frequently than yearly, then three times the appropriation from the committee's fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the clinical social workers fund for the preceding fiscal year.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY — LICENSES ISSUED, WHEN. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised clinical experience with a **[**licensed clinical social worker acceptable to the committee, as defined by rule,**]** **"qualified clinical supervisor", as defined in section 337.600,** in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice clinical social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice clinical social work in this state if the person meets one of the following criteria:

(1) Has received a masters or doctoral degree from a college or university program of social work accredited by the council of social work education and has been licensed to practice clinical social work for the preceding five years; or

(2) Is currently licensed or certified as a clinical social worker in another state, territory of the United States, or the District of Columbia having substantially the same requirements as this state for clinical social workers.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to **[**337.639**]** **337.689** and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.618. LICENSE EXPIRATION, RENEWAL, FEES, CONTINUING EDUCATION REQUIREMENTS. — Each license issued pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months. The committee shall require a minimum number of thirty clock hours of continuing education for renewal of a license issued pursuant to sections 337.600 to **[**337.639**]** **337.689**. The committee shall renew any license, other than a provisional license, upon application for a renewal, completion of the required continuing education hours and upon payment of the fee established by the committee pursuant to the provisions of section 337.612. As provided by rule, the board may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

337.622. STATE COMMITTEE FOR SOCIAL WORKERS — MEMBERSHIP, REMOVAL AND VACANCIES. — 1. There is hereby established the "State Committee for Social Workers", which

shall guide, advise, and make recommendations to the division and fulfill other responsibilities designated by sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689. The committee shall approve any examination required by sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689 and shall assist the division in carrying out the provisions of sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689.

2. The committee shall consist of **[**nine**]** **ten** members, including a public member appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state. The committee shall consist of six licensed clinical social workers, **[**two**]** **one licensed master social worker, one** licensed baccalaureate social workers**, one licensed advanced macro social worker,** and one voting public member. At least two committee members shall be involved in the private practice of clinical social work. **[**Any person who is a member of any clinical social worker advisory committee appointed by the director of the division of professional registration shall be eligible for appointment to the state committee for social work on August 28, 1997.**]** The governor shall endeavor to appoint members from different geographic regions of the state and with regard to the pattern of distribution of social workers in the state. The term of office for committee members shall be four years and no committee member shall serve more than ten years. **[**Of the members first appointed, the governor shall appoint three members, one of whom shall be the public member, whose terms shall be four years; three members whose terms shall be three years; two members whose terms shall be two years; and one member whose term shall be one year.**]** The president of the National Association of Social Workers Missouri Chapter in office at the time shall, at least ninety days prior to the expiration of a term of a member of a clinical social worker**, master social worker, advanced macro social worker,** or baccalaureate social worker committee member or as soon as feasible after a vacancy on the committee otherwise occurs, submit to the director of the division of professional registration a list of five **[**clinical**]** social workers qualified **[**or five baccalaureate social workers**]** and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons in each category so listed, and with the list so submitted, the president of the National Association of Social Workers Missouri Chapter shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. Notwithstanding any other provision of law to the contrary, any appointed member of the committee shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for committee business plus each member of the committee shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency or neglect of the member's official duties after giving the committee member written notice of the charges against such member and an opportunity to be heard thereon.

7. The public member shall be at the time of such member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 337.600 to **[**337.649 or sections 337.650 to**]** 337.689, or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the

professional services regulated by sections 337.600 to **[**337.649 or sections 337.650 to**]** 337.689, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 337.600 to **[**337.649**]** **337.689**. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

337.627. RULES AND REGULATIONS, PROCEDURE. — 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.600 to **[**337.639**]** **337.689** and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(3) The characteristics of "supervised clinical experience" **[**as that term is used in section 337.615**], "supervised master experience", "supervised advanced macro experience", and "supervised baccalaureate experience"**;

(4) The standards and methods to be used in assessing competency as a licensed clinical social worker**, licensed master social worker, licensed advanced macro social worker, and licensed baccalaureate social worker, including the requirement for continuing education hours**;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have clinical**, master, advanced macro, or baccalaureate** social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.600 to **[**337.639**]** **337.689**.

2. **[**No rule or portion of a rule promulgated pursuant to the authority of sections 337.600 to 337.639 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]** **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

337.630. GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION OF LICENSE — CIVIL IMMUNITY, WHEN — PROCEDURE UPON FILING COMPLAINT. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.600 to **[**337.639**]** **337.689** for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by

sections 337.600 to **[**337.639**]** **337.689** or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of **[**clinical**]** social work **licensed under this chapter**; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a **[**clinical**]** social worker **licensed under this chapter**; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a **[**clinical**]** social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to **[**337.639**]** **337.689**, or of any lawful rule or regulation adopted pursuant to sections 337.600 to **[**337.639**]** **337.689**;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice **[**clinical**]** social work licensed pursuant to this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice **[**clinical**]** social work licensed pursuant to this chapter who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.600 to **[**337.639**]** **337.689** or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

337.636. PRIVILEGED COMMUNICATIONS, WHEN. — Persons licensed under the provisions of sections 337.600 to **[**337.639**]** **337.689** may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.

337.643. LICENSURE REQUIRED FOR USE OF TITLE — PRACTICE AUTHORIZED. — 1. No person shall use the title of licensed master social worker and engage in the practice of master social work in this state unless the person is licensed as required by the provisions of this section and section 337.644.

2. A licensed master social worker shall be deemed qualified to practice the applications of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master social work practice includes the applications of specialized knowledge and advanced practice skills in the management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under supervision as provided in sections 337.600 to 337.689, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers.

337.644. APPLICATION, CONTENTS — RECIPROCITY — ISSUANCE OF LICENSE, WHEN. — 1. Each applicant for licensure as a master social worker shall furnish evidence to the committee that:

(1) The applicant has a master's or doctorate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social workers;

(3) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

(4) The applicant has submitted a written application on forms prescribed by the state board;

(5) The applicant has submitted the required licensing fee, as determined by the committee.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure under section 337.630 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person holding a valid unrevoked and unexpired license, certificate, or registration from another state or territory of the United States having substantially the same requirements as this state for master social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee under section 337.612.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 3 of this section. The license shall refer to the individual as a licensed master social worker and shall recognize that individual's right to practice licensed master social work as defined in section 337.600.

337.645. APPLICATION INFORMATION REQUIRED — ISSUANCE OF LICENSE, WHEN. — 1. Each applicant for licensure as an advanced macro social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised advanced macro experience with a "qualified advanced macro supervisor" as defined in section 337.600 in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice advanced macro social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice advanced macro social work in this state if the person meets one of the following criteria:

(1) Has received a master's or doctoral degree from a college or university program of social work accredited by the council of social work education and has been licensed to practice advanced macro social work for the preceding five years; or

(2) Is currently licensed or certified as an advanced macro social worker in another state, territory of the United States, or the District of Columbia having substantially the same requirements as this state for advanced macro social workers.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.

337.646. LICENSE REQUIRED FOR USE OF TITLE. — 1. No person shall use the title of licensed advanced macro social worker and engage in the practice of advanced macro social work in this state unless the person is licensed as required by the provisions of section 337.645.

337.653. BACCALAUREATE SOCIAL WORKERS, LICENSE REQUIRED, PERMITTED ACTIVITIES. — 1. No person shall use the title of "licensed baccalaureate social worker" **[**or "provisional licensed baccalaureate social worker"**]** and engage in the practice of baccalaureate social work in this state unless the person is licensed as required by the provisions of sections **[**337.650**]** **337.600** to 337.689.

2. A licensed baccalaureate social worker shall be deemed qualified to practice the following:

(1) Engage in assessment and evaluation from a generalist perspective, excluding the diagnosis and treatment of mental illness and emotional disorders;

(2) Conduct basic data gathering of records and social problems of individuals, groups, families and communities, assess such data, and formulate and implement a plan to achieve specific goals;

(3) Serve as an advocate for clients, families, groups or communities for the purpose of achieving specific goals;

(4) Counsel, excluding psychotherapy; however, counseling shall be defined as providing support, direction, and guidance to clients by assisting them in successfully solving complex social problems;

(5) Perform crisis intervention, screening and resolution, excluding the use of psychotherapeutic techniques;

(6) Be a community supporter, organizer, planner or administrator for a social service program;

(7) Conduct crisis planning ranging from disaster relief planning for communities to helping individuals prepare for the death or disability of family members;

(8) Inform and refer clients to other professional services;

(9) Perform case management and outreach, including but not limited to planning, managing, directing or coordinating social services; and

(10) Engage in the training and education of social work students from an accredited institution and supervise other licensed baccalaureate social workers.

3. **[**A**]** **If the licensed baccalaureate social worker has completed three thousand hours of supervised baccalaureate experience with a qualified baccalaureate supervisor in no less than twenty-four months and no more than forty-eight consecutive calendar months, the** licensed baccalaureate social worker may engage in the independent practice of baccalaureate social work as defined in **[**subdivision (6) of**]** section **[**337.650**]** **337.600** and subdivisions (1) to (10) of subsection 2 of this section. **Upon demonstrating the successful completion of supervised experience, the state committee for social workers shall provide the licensee with a certificate clearly stating the individual's qualification to practice independently with the words "independent practice" or "IP" next to his or her licensure.**

337.665. INFORMATION REQUIRED TO BE FURNISHED COMMITTEE — RECIPROCITY, WHEN — CERTIFICATE TO PRACTICE INDEPENDENTLY ISSUED, WHEN. — 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) **[**The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

(4)**]** The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

[(5)**]** **(4)** The applicant has submitted a written application on forms prescribed by the state board;

[(6)**]** **(5)** The applicant has submitted the required licensing fee, as determined by the **[**division**]** **committee**.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section **[**337.680**]** **337.630** shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section **[**337.662**]** **337.612**.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections **[**337.650**]** **337.600** to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. **[**The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.**]**

5. The committee shall issue a certificate to practice independently under subsection 3 of section 337.653 to any licensed baccalaureate social worker who has satisfactorily completed three thousand hours of supervised experience with a qualified baccalaureate supervisor in no less than twenty-four months and no more than forty-eight consecutive calendar months.

337.689. LICENSEES MAY BE COMPELLED TO TESTIFY. — Nothing in sections **[**337.650**]** **337.600** to 337.689 shall be construed to prohibit any person licensed pursuant to the provisions of sections **[**337.650**]** **337.600** to 337.689 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.

337.700. DEFINITIONS. — As used in sections 337.700 to 337.739, the following terms mean:

(1) "Committee", the state committee for family and marital therapists;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Fund", the marital and family therapists' fund created in section 337.712;

(6) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not suspended or revoked;

(7) "Marital and family therapy", the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, **diagnosing,** evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and

techniques and includes the use of marriage and family therapy theories and techniques in the **diagnosis,** evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;

(8) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) **After August 28, 2008, the applicant shall have completed a minimum of three semester hours of graduate level course work in diagnostic systems either within the curriculum leading to a degree as defined in subdivision (1) of this subsection or as post master's graduate level course work. Each applicant shall demonstrate supervision of diagnosis as a core component of the postgraduate supervised clinical experience as defined in subdivision (2) of this subsection;**

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

[(4)**]** **(5)** The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. A licensed marriage and family therapist who has had no violations and no suspensions and no revocation of a license to practice marriage and family therapy in any jurisdiction may receive a license in Missouri provided said marriage and family therapist passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.700, and meets one of the following criteria:

(1) Is a member in good standing and holds a certification from the Academy of Marriage and Family Therapists;

(2) Is currently licensed or certified as a licensed marriage and family therapist in another state, territory of the United States, or the District of Columbia; and

(a) Meets the educational standards set forth in subdivision (1) of subsection 1 of this section;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years; or

(3) Is currently licensed or certified as a marriage and family therapist in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

3. The division shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.

337.718. LICENSE EXPIRATION, RENEWAL FEE — TEMPORARY PERMITS. — 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712. **Effective August 28, 2008, as a prerequisite for renewal, each licensee shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as defined by rule, which shall be no more than forty contact hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of illness or for other good cause.**

2. The division may issue temporary permits to practice under extenuating circumstances as determined by the division and defined by rule.

339.100. INVESTIGATION OF CERTAIN PRACTICES, PROCEDURE — SUBPOENAS — FORMAL COMPLAINTS — REVOCATION OR SUSPENSION OF LICENSES — DIGEST MAY BE PUBLISHED — REVOCATION OF LICENSES FOR CERTAIN OFFENSES. — 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the

instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability

to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate**, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense**.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing **[**commissioner**]** **commission**.

339.200. PROHIBITED ACTS — INVESTIGATION MAY BE INITIATED, WHEN, PROCEDURE. — 1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. When reviewing complaints against unlicensed persons, the commission may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence.

3. If the commission files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

339.205. CIVIL PENALTY MAY BE IMPOSED, WHEN — AMOUNT, LIMIT, FACTORS — SETTLEMENT PROCEDURES. — 1. In actions against unlicensed persons or disciplinary actions against licensed persons, the commission may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of facts and conclusions of law by the administrative hearing commission have been delivered to the commission in accordance with section 621.110, RSMo. Further, no civil penalty shall be assessed until a formal meeting and vote by the board has been taken to impose such a penalty.

2. Any civil penalty imposed by the commission shall not exceed two thousand five hundred dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the commission may consider any of the following:

(1) Whether the amount imposed will be a substantial deterrent to the violation;

(2) The circumstances leading to the violation;

(3) The severity of the violation and the risk of harm to the public;

(4) The economic benefits gained by the violator as a result of noncompliance; and

(5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the commission. If the penalty is not timely paid, the commission shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the commission under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for denying, disciplining or refusing to renew or reinstate a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

345.015. DEFINITIONS. — As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(3) "Board", the state board of registration for the healing arts;

(4) "Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

(6) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

(7) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

(8) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation, counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection **[**and**],** assessment**, fitting, programming, and dispensing** of hearing instruments**, assistive listening devices, and other amplification systems**;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

(o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;

(p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;

(q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;

(r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;

(s) Develops and manages academic and clinical problems in communication sciences and disorders;

(t) Conducts, disseminates and applies research in communication sciences and disorders;

(9) "Practice of speech-language pathology":

(a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to prevention, restoration, amelioration and compensation, and follow-up services for disorders of:

a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;

b. Language, involving the parameters of phonology, morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;

c. Oral, pharyngeal, cervical esophageal and related functions, such as dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;

d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;

e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;

(b) Provides consultation and counseling and makes referrals when appropriate;

(c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;

(d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of augmentative aids and devices; and the training of individuals, their families and other communication partners in their use;

(e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, or speaking valves;

(f) Uses instrumental technology to diagnose and treat disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

(g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;

(h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;

(i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;

(j) Enhances speech and language proficiency and communication effectiveness, including but not limited to accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;

(k) Trains and supervises support personnel;

(l) Develops and manages academic and clinical programs in communication sciences and disorders;

(m) Conducts, disseminates and applies research in communication sciences and disorders;

(n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;

(10) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to 345.080;

(11) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(12) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the

direction and supervision of a licensed speech-language pathologist and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

(a) Hold a bachelor's level degree in the field of speech-language pathology from an institution accredited or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent; and

(b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's level course work and clinical practicum requirements equivalent to that required or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent.

345.030. DUTIES OF BOARD. — 1. The board shall administer, coordinate, and enforce the provisions of sections 345.010 to 345.080, evaluate the qualifications of applicants, supervise the examination of applicants, issue licenses, and shall investigate persons engaging in practices which appear to violate the provisions of sections 345.010 to 345.080.

2. The board shall conduct such hearings and keep such records and minutes as shall be necessary to an orderly dispatch of business.

3. The board shall adopt reasonable rules and regulations which establish ethical standards of practice and may amend or repeal the same. **Rules and regulations shall be adopted that ensure consumer protection related to hearing instrument dispensing that meet or exceed those provided under sections 346.007 to 346.250, RSMo, and rules and regulations promulgated pursuant thereto.**

4. Regular meetings of the commission shall be held at such times and places as it prescribes, and special meetings may be held upon the call of the chairperson or by request of at least two other members of the commission, but at least one regular meeting shall be held each year.

5. No rule or portion of a rule promulgated pursuant to the authority of sections 345.010 to 345.080 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

345.033. PURCHASE AGREEMENT REQUIRED, WHEN, CONTENTS. — 1. Any person licensed under sections 345.010 to 345.080 who dispenses products associated with professional practice to clients for remuneration shall deliver to each person supplied with a product a completed purchase agreement which shall include the terms of the sale clearly stated using ordinary English language and terminology which is easily understood by the purchaser. If a product which is not new is sold, the purchase agreement and the container thereof shall be clearly marked as "used", "recased", or "reconditioned", whichever is applicable, with terms of guarantee, if any.

2. Any audiologist licensed under sections 345.010 to 345.080 who dispenses hearing instruments shall include in the purchase agreement for a hearing instrument the following:

(1) The licensee's signature, business address, and license number;

(2) The specifications of the hearing instrument dispensed including make, model, and serial number;

(3) The exact amount of any down payment;

(4) The length of any trial period provided;

(5) The amount of any charges or service fees connected with any trial period;

(6) A description of the right of the purchaser to return the hearing instrument or written notification that no such right exists;

(7) The name of the manufacturer of the component parts and the assembler or reassembler of the hearing instrument when the product sold is remanufactured or assembled by someone other than the manufacturer of the component parts.

345.045. BOARD FUND, COLLECTION AND DISPOSITION — TRANSFERS AUTHORIZED. — **1. Except as otherwise provided in this section,** all moneys received pursuant to sections 345.010 to 345.080 shall be collected by the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the board of registration for the healing arts fund.

2. Effective July 1, 2008, the board shall, in every odd numbered year, transfer from the "Board of Registration for the Healing Arts Fund" to the "Hearing Instrument Specialist Fund" an amount not to exceed sixty-one thousand dollars per transfer as necessary to replace decreased renewal fees received by the board of examiners for hearing instrument specialists as a result of the decrease in licensees under subsection 2 of section 346.060, RSMo. The initial transfer amount shall be equal to the license renewal fees paid during fiscal years 2006 and 2007 by individuals licensed under subsection 2 of section 346.060, RSMo. The amount of subsequent transfers may decrease each odd numbered year. Any decrease shall be no more than twenty-five percent of the initial transfer amount. The transfer amount shall be requested through the legislative budget process by the director of the division of professional registration, with the advice and consultation of the board and the board of examiners for hearing instrument specialists.

3. Moneys collected and deposited under this section may be used to assist in the enforcement of the statutes relating to the fitting and dispensing of hearing aids by unlicensed individuals.

345.055. FEES, AMOUNT, HOW SET. — 1. The board shall charge a license or registration renewal fee for each license or registration renewed. Persons possessing the required training and qualifications to be licensed or registered as both a speech-language pathologist and audiologist shall receive both licenses, which for the purposes of this section shall be considered as a single license or certificate. Duplicate licenses or certificates shall be issued without additional charge to persons practicing in more than one location. Persons who allow their licenses to lapse shall submit a reinstatement fee, and if the license has lapsed for more than a three-year period, the board may require reexamination.

2. The fees prescribed by section 345.051 and this section shall be exclusive, and notwithstanding any other provision of law, no municipality may require any person licensed pursuant to the provisions of sections 345.010 to 345.080 to furnish any bond, pass any examination, or pay any license fee or occupational tax.

3. The board shall set the amount of the fees which sections 345.010 to 345.080 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce**:**

(1) Revenue which shall not substantially exceed the cost and expense of administering sections 345.010 to 345.080**; and**

(2) Effective July 1, 2008, any transfer required from the board under subsection 2 of section 345.045.

346.015. LICENSE REQUIRED — EXCEPTION — PENALTY FOR VIOLATION. — 1. No person shall engage in the practice of fitting hearing instruments or display a sign or in any other way advertise or represent such person by any other words, letters, abbreviations or insignia indicating or implying that the person practices the fitting of hearing instruments unless the person holds a valid license issued by the division as provided in this chapter. The license shall be conspicuously posted in the person's office or place of business. Duplicate licenses shall be

issued by the department to valid license holders operating more than one office, without additional payment. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license in an appropriate and public manner and shall keep the board informed of the licensee's current address. A license issued pursuant to sections 346.010 to 346.250 is the property of the division and must be surrendered on demand in the event of expiration or after a final determination is made with respect to revocation, suspension or probation.

3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail, provided that it employ only properly licensed hearing instrument specialists **or properly licensed audiologists** in the direct sale and fitting of such instruments. Each corporation, partnership, trust, association or other like organization shall file annually with the board on a form provided by the board, a list of all licensed hearing instrument specialists employed by it. Each organization shall also file with the division a statement, on a form provided by the division, that it agrees to comply with the rules and regulations of the division and the provisions of **this chapter**.

4. Any person who violates any provision of this section is guilty of a class B misdemeanor.

346.030. INAPPLICABILITY OF LAW, WHEN. — Sections 346.010 to 346.250 **[**are not intended to prevent**] shall not apply to** any audiologist licensed pursuant to chapter 345, RSMo, **[**from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids, provided such audiologist, or organization employing such audiologist, does not sell hearing instruments, or accessories thereto, except in the case of earmolds provided by an audiologist to be used only for the purpose of audiologic evaluation**] while practicing exclusively under that license**.

346.035. EXEMPT PROFESSION. — **[**1.**]** Sections 346.010 to 346.250 shall not apply to a person who is a physician licensed to practice in Missouri pursuant to chapter 334, RSMo.

[2. Sections 346.010 to 346.250 shall not apply to an audiologist, provided such person or organization employing such person does not engage in the sale of hearing aids.**]**

346.055. REQUIREMENTS FOR LICENSE BY EXAMINATION. — 1. An applicant may obtain a license by successfully passing a qualifying examination of the type described in sections 346.010 to 346.250, provided the applicant:

(1) Is at least twenty-one years of age;

(2) Is of good moral character; **and**

(3) **Until December 31, 2008,** has an education equivalent to at least a high school diploma from an accredited high school.

2. Beginning January 1, 2009, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall demonstrate successful completion of a minimum of sixty semester hours, or its equivalent, at a state or regionally accredited institution of higher education.

3. Beginning January 1, 2011, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold an associate's level degree or higher from a state or regionally accredited institution of higher education.

4. Beginning January 1, 2013, or any date thereafter when an associate degree program in hearing instrument sciences is available from a state or regionally accredited institution within Missouri, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold:

(1) An associate's degree or higher in hearing instrument sciences; or

(2) A master's or doctoral degree in audiology from a state or regionally accredited institution.

5. The provisions of subsections 2, 3, and 4 of this section shall not apply to any person holding a valid Missouri hearing instrument specialist license under this chapter when applying for the renewal of that license. These provisions shall apply to any person holding a hearing instrument specialist-in-training permit at the time of their application for licensure or renewal of said permit.

346.060. EXAMINATION, WRITTEN AND PRACTICAL REQUIRED. — **[**1.**]** An applicant for license by examination shall appear at a time, place, and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that the applicant is qualified to engage in the practice of fitting hearing instruments. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

[2. Notwithstanding the provisions of subsection 1 of this section, any applicant who is an audiologist licensed pursuant to chapter 345, RSMo, and who holds the certification of clinical competence or is completing the clinical fellowship year offered by the American Speech-Language-Hearing Association shall not be required to pass either the written exam or the practical exam for licensure as a hearing instrument specialist in this state.**]**

346.110. PROHIBITED ACTS. — No person shall:

(1) Sell through the mails, hearing instruments without prior fitting and testing by a hearing instrument specialist **licensed under this chapter or an audiologist licensed under chapter 345, RSMo**;

(2) Sell, barter, or offer to sell or barter a license;

(3) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting hearing instruments;

(4) Alter a license with fraudulent intent;

(5) Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered;

(6) Willfully make a false statement in an application for license or application for renewal of a license.

383.130. DEFINITIONS. — As used in sections 383.130**[**,**]** **and** 383.133 **[**and 383.500**]**, the following terms shall mean:

(1) "Disciplinary action", any final action taken by the board of trustees or similarly empowered officials of a hospital or ambulatory surgical center**, or owner or operator of a temporary nursing staffing agency,** to reprimand, discipline or restrict the practice of a health care professional. **[**If the health care professional is a physician or surgeon,**]** Only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions **[**pursuant to section 334.100, RSMo,**]** **according to the professional licensing law for that health care professional** shall be considered disciplinary actions for the purposes of this definition**[**. If the health care professional is a dentist, only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions pursuant to section 332.321, RSMo, shall be considered disciplinary actions for the purposes of this definition**]**;

(2) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their scope of practice;

(3) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four hours in any week medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(4) "Licensing authority", the appropriate board or authority which is responsible for the licensing or regulation of the health care professional**;**

(5) "Temporary nursing staffing agency", any person, firm, partnership, or corporation doing business within the state that supplies, on a temporary basis, registered nurses, licensed practical nurses to a hospital, nursing home, or other facility requiring the services of those persons.

383.133. REPORTS BY HOSPITALS, AMBULATORY SURGICAL CENTERS AND LICENSING AUTHORITIES, WHEN, CONTENTS, LIMITED USE, PENALTY. — 1. **[**Beginning on January 1, 1987,**]** The chief executive office **or similarly empowered official** of any hospital **[**or**],** ambulatory surgical center, as such **[**term is**] terms are** defined in **[**section 197.200**] chapter 197**, RSMo, **or temporary nursing staffing agency,** shall report to the appropriate health care professional licensing authority any disciplinary action against any health care professional or the voluntary resignation of any health care professional against whom any complaints or reports have been made which might have led to disciplinary action.

2. All reports required by this section shall be submitted within fifteen days of the final disciplinary action and shall contain, but need not be limited to, the following information:

(1) The name, address and telephone number of the person making the report;

(2) The name, address and telephone number of the person who is the subject of the report;

(3) A **[**brief**]** description of the facts**, including as much detail and information as possible,** which gave rise to the issuance of the report, including the dates of occurrence deemed to necessitate the filing of the report;

(4) If court action is involved and known to the reporting agent, the identity of the court, including the date of filing and the docket number of the action.

3. Upon request, the licensing authority may furnish a report of any disciplinary action received by it under the provisions of this section to any **[**of the hospitals or ambulatory surgical centers**] entity** required to report **under this section**. Such licensing authority may also furnish, upon request, a report of disciplinary action taken by the licensing authority to any other administrative or law enforcement agency acting within the scope of its statutory authority.

4. There shall be no liability on the part of, and no cause of action of any nature shall arise against any health care professional licensing authority or any **[**hospital or ambulatory surgical center**] entity** required to report under this section, or any of their agents or employees for any action taken in good faith and without malice in carrying out the provisions of this section.

5. Neither a report required to be filed under subsection 2 of this section nor the record of any proceeding shall be used against a health care professional in any other administrative or judicial proceeding.

6. Violation of any provision of this section is an infraction.

621.045. COMMISSION TO CONDUCT HEARINGS, MAKE DETERMINATIONS — BOARDS INCLUDED — SETTLEMENT AGREEMENTS. — 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his qualifications or refuses to issue or renew a license of an applicant who has

passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri **State** Board **[**of Registration**]** for Architects, Professional Engineers **[**and**], Professional** Land Surveyors **and Landscape Architects**

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health

Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. **The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076, RSMo.**

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact [pursuant to] **under** this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

[4.**]** **5.** If the licensee desires review by the administrative hearing commission **[**pursuant to**] under** subdivision (3) of subsection **[**3**] 4** of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing

commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

[327.111. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices architecture in Missouri as defined in section 327.091, who is not exempt pursuant to the provisions of section 327.101, or who is not the holder of a currently valid license or certificate of authority to practice architecture in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another architect or who affixes his or her or another's architect's seal on any plans, specifications, drawings, or reports which have not been prepared by such person or under such person's immediate personal supervision, is guilty of a class A misdemeanor.**]**

[327.201. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices professional engineering in Missouri as defined in section 327.181, who is not exempt pursuant to the provisions of section 327.191 and who is not the holder of a currently valid license or certificate of authority to practice professional engineering in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another professional engineer, or who affixes such person's or another professional engineer's seal on any plans, specifications, drawings or reports which have not been prepared by such person or under such person's immediate personal supervision is guilty of a class A misdemeanor.**]**

[327.291. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices as a professional land surveyor in Missouri as defined in section 327.272, who is not a holder of a currently valid license or certificate of authority to practice professional land surveying in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another professional land surveyor or who affixes such person's or another professional land surveyor's seal on any map, plat, survey or other document which has not been prepared by such person or under such person's immediate personal supervision is guilty of a class A misdemeanor.**]**

[327.633. VIOLATIONS, PENALTY. — Any person violating any of the provisions of sections 327.600 to 327.635 is deemed guilty of a class A misdemeanor.**]**

[336.090. QUALIFICATIONS FOR REGISTRATION OF APPLICANT LICENSED IN ANOTHER STATE — FEES REQUIRED. — 1. Upon payment of a fee equivalent to the examination and certificate fees, an applicant who is an optometrist, registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province shall, without examination, be granted a certificate of registration as a registered optometrist by the state board of optometry upon the following conditions:

(1) That the applicant is at least twenty-one years of age, of good moral character; and

(2) That the requirements for the registration or licensing of optometrists in the particular state, territory, country or province, were, at the date of the license, substantially equal to the requirements then in force in this state.

2. The board may by rule and regulation require applicants under this section to satisfactorily complete any practical examination or any examination on Missouri laws required pursuant to section 336.050.**]**

[336.200. ADVERTISING TO INCLUDE NAMES OF REGISTERED OPTOMETRISTS — PENALTY. — Any person, firm or corporation employing a registered optometrist may advertise the availability of optometric service, provided that the names of the registered optometrists providing such service are included in all printed advertisements. The violation of any provision

of this section shall constitute an infraction, punishable upon conviction, by a fine of not less than twenty-five dollars nor more than two hundred dollars.**]**

[337.606. ACADEMIC REQUIREMENTS, EXEMPTIONS. — For a period of twenty-four months from July 1, 1990, applicants for licensure shall be exempted from the academic requirements of sections 337.600 to 337.639 if the committee is satisfied that the applicant has acceptable educational qualifications, or social work experience, or is currently engaged in the practice of clinical social work. After that time no person shall engage in clinical social work practice for compensation or hold himself or herself out as a licensed clinical social worker unless the person is licensed in accordance with the provisions of sections 337.600 to 337.639.**]**

[337.609. EMPLOYMENT OF LICENSED CLINICAL SOCIAL WORKERS NOT REQUIRED, WHEN. — No provision of sections 337.600 to 337.639 shall be construed to require any agency, corporation, or organization, not otherwise required by law, to employ licensed clinical social workers.**]**

[337.624. THIRD-PARTY REIMBURSEMENTS BY INSURANCE NOT MANDATED, CONSTRUCTION OF STATUTES. — 1. No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.

2. This section shall not be construed to effect procedures for billing for social work services provided by agencies, corporations, or organizations which employ licensed social workers.**]**

[337.639. PRIVILEGED COMMUNICATIONS, EXCEPTIONS. — Nothing in sections 337.600 to 337.639 shall be construed to prohibit any person licensed under the provisions of sections 337.600 to 337.639 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.**]**

[337.650. DEFINITIONS. — As used in sections 337.650 to 337.689, the following terms mean:

(1) "Committee", the state committee for social work established in section 337.622;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

(6) "Practice of baccalaureate social work", rendering, offering to render or supervising those who render to individuals, families, groups, organizations, institutions, corporations or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(7) "Provisional licensed baccalaureate social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed baccalaureate social worker, other than the supervised baccalaureate social work experience prescribed by subdivision

(3) of subsection 1 of section 337.665, and who is supervised by a licensed clinical social worker or a licensed baccalaureate social worker, as defined by rule.**]**

[337.659. NO EMPLOYER REQUIRED TO EMPLOY LICENSED SOCIAL WORKERS. — No provision of sections 337.650 to 337.689 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed baccalaureate social workers.**]**

[337.668. TERM OF LICENSE — RENEWAL. — The term of each license issued pursuant to the provisions of sections 337.650 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar months. All licensees shall annually complete fifteen hours of continuing education units. The committee shall renew any license, other than a provisional license, upon application for a renewal, submission of documentation of the completion of the required annual hours of continuing education and payment of the fee established by the committee pursuant to the provisions of section 337.662.**]**

[337.674. NO MANDATORY THIRD-PARTY REIMBURSEMENT FOR SERVICES. — No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.**]**

[337.677. RULEMAKING AUTHORITY. — 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.650 to 337.689 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.650 to 337.689;

(3) The characteristics of "supervised baccalaureate experience" as that term is used in section 337.665;

(4) The standards and methods to be used in assessing competency as a licensed baccalaureate social worker, including the requirement for annual continuing education units;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.650 to 337.689;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have baccalaureate or clinical social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.650 to 337.689.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 337.650 to 337.689 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**]**

[337.680. REFUSAL TO ISSUE OR RENEW LICENSE, WHEN — COMPLAINT PROCEDURE. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.650 to 337.689 for one or any combination of causes stated in subsection 2 of this

section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.650 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of baccalaureate social work; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a baccalaureate social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.650 to 337.689 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.650 to 337.689;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a baccalaureate social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.650 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.650 to 337.689;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice baccalaureate social work granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice baccalaureate social work who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.650 to 337.689;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.650 to 337.689 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct based on the code of ethics of the National Association of Social Workers.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.650 to 337.689 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms

and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.**]**

[337.686. CONFIDENTIALITY REQUIREMENTS, EXCEPTIONS. — Persons licensed pursuant to the provisions of sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.**]**

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 317.001, 317.006, 317.011, 317.013, 317.015, and 317.018, and the enactment of section 317.019 of section A of this act shall become effective on July 1, 2008.

Approved July 13, 2007

SB 320 [HCS SS SCS SB 320]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the "Large Animal Veterinary Student Loan Program" and modifies the Large Animal Veterinary Medicine Loan Repayment Program

AN ACT to repeal sections 261.020, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, and 340.347, RSMo, and to enact in lieu thereof eighteen new sections relating to large animal veterinary student loan assistance.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 261.020, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, and 340.347, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 261.020, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 340.375, 340.381, 340.384, 340.387, 340.390, 340.393, 340.396, 340.399, 340.402, and 340.405, to read as follows:

261.020. DUTIES AND POWERS OF DIRECTOR. — The state director of the department of agriculture is hereby constituted the official who has supervision of all the legalized departments of the state which are of a regulatory nature for the advancement of horticulture and agriculture, except after January 1, 1996, he **or she** shall not have direct supervision of the state fair. He **or she** shall cooperate with the college of agriculture of the University of Missouri in all ways beneficial to the horticultural and agricultural interests of the state, without duplicating research, extension or educational work conducted by said college, but nothing herein shall be construed as to subordinate the state department of agriculture to the said college of agriculture. The director has charge of the veterinary service of the state, the appointment of the state veterinarian, and, with the advice of the veterinarian, of deputy veterinarians, and other assistants. The director has the power of reasonable quarantine in relation to the regulatory laws of the state department of agriculture, and the power of quarantine in relation to livestock diseases includes poultry. It is the duty of the director to gather and compile helpful statistics and information, singly or in cooperation with the federal government, relating to horticulture and agriculture, and he **or she** may publish bulletins not duplicating available educational bulletins of the college of agriculture and the United States Department of Agriculture. He **or she** may charge a reasonable amount for any publication distributed by the department of agriculture. Any funds received from the amounts so charged shall be deposited to the credit of the general revenue fund. The director shall make a biennial report to the governor and the general assembly, including the essential information relating to horticulture and agriculture, especially crops and livestock, also data concerning the agricultural organizations of the state, accompanied by recommendations relating to the state department of agriculture and the advancement of agricultural education.

340.335. LOAN REPAYMENT PROGRAM FOR VETERINARY GRADUATES — FUND CREATED. — 1. Sections 340.335 to 340.350 establish a loan repayment program for graduates of approved veterinary medical schools who practice in areas of defined need and shall be known as the "Large Animal Veterinary Medicine Loan Repayment Program".

2. The "Large Animal Veterinary Medicine Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 340.347 and all funds generated by loan repayments and penalties received pursuant to section 340.347 shall be credited to the fund. The moneys in the fund shall be used by the **[**Missouri veterinary medical board**]** **department of agriculture** to provide loan repayments pursuant to section 340.343 in accordance with sections 340.335 to 340.350.

340.337. DEFINITIONS. — As used in sections 340.335 to **[**340.350**]** **340.405**, the following terms shall mean:

(1) "Areas of defined need", areas designated by the **[**board**]** **department** pursuant to section 340.339, when services of a large animal veterinarian are needed to improve the **[**client-doctor**]** **veterinarian-patient** ratio in the area, or to contribute professional veterinary services to an area of economic impact;

(2) [**"Board", the Missouri veterinary medical board**] **"College", the college of veterinary medicine at the University of Missouri-Columbia;**

(3) "Department", the Missouri department of agriculture;

(4) "Director", director of the Missouri department of agriculture;

(5) "Eligible student", a resident who has been accepted as a full-time student at the University of Missouri-Columbia enrolled in the doctor of veterinary medicine degree program at the college of veterinary medicine;

[(3)] **(6)** "Large animal veterinarian", veterinarians licensed [and registered] pursuant to this chapter, engaged in general or large animal practice as their primary [specialties] **focus of practice**, and who have [at least fifty percent] **a substantial portion** of their practice devoted to large animal veterinary medicine**;**

(7) "Qualified applicant", an eligible student approved by the department for participation in the large animal veterinary student loan program established by sections 340.375 to 340.405;

(8) "Qualified employment", employment as a large animal veterinarian and where a substantial portion of business involves the treatment of large animals on a full-time basis in Missouri located in an area of need as determined by the department of agriculture. Qualified employment shall not include employment with a large-scale agribusiness enterprise, corporation, or entity. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(9) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

340.339. CERTAIN AREAS DESIGNATED AS AREAS OF DEFINED NEED BY DEPARTMENT BY RULE. — The [board] **department** shall designate counties, communities or sections of rural areas as areas of defined need as determined by the [board] **department** by rule.

340.341. ELIGIBILITY STANDARDS FOR LOAN REPAYMENT PROGRAM — RULEMAKING AUTHORITY. — 1. The [board] **department** shall adopt and promulgate rules establishing standards for determining eligible persons for loan repayment pursuant to sections 340.335 to 340.350. Such standards shall include, but are not limited to the following:

(1) Citizenship or permanent residency in the United States;

(2) Residence in the state of Missouri;

(3) Enrollment as a full-time veterinary medical student in the final year of a course of study offered by an approved educational institution in Missouri;

(4) Application for loan repayment.

2. The [board] **department** shall not grant repayment for more than [five] **six** veterinarians each year.

340.343. CONTRACT FOR LOAN REPAYMENT, CONTENTS — SPECIFIC PRACTICE SITES MAY BE STIPULATED. — 1. The [board] **department** shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the [board] **department** and an individual shall contain, but not be limited to, the following:

(1) An agreement that the state agrees to pay on behalf of the individual, loans in accordance with section 340.345 and the individual agrees to serve for a time period equal to [five] **four** years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of [the signed contract or] graduation by the individual with a degree of doctor of veterinary medicine[, whichever is later];

(2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments;

(3) The area of defined need where the person will practice;

(4) A statement of the damages to which the state is entitled for the individual's breach of the contract;

(5) Such other statements of the rights and liabilities of the **[**board**]** **department** and of the individual not inconsistent with sections 340.335 to 340.350.

2. The **[**board**]** **department** may stipulate specific practice sites contingent upon **[**board-generated**]** **department-generated** large animal veterinarian need priorities where applicants shall agree to practice for the duration of their participation in the program.

340.345. LOAN REPAYMENT TO INCLUDE PRINCIPAL, INTEREST AND RELATED EXPENSES — ANNUAL LIMIT. — 1. A loan payment provided for an individual pursuant to a written contract under the large animal veterinary medicine loan repayment program shall consist of payment on behalf of the individual of the principal, interest and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the **[**board**]** **department** may pay up to **[**ten**]** **twenty** thousand dollars on behalf of the individual for loans described in subsection 1 of this section.

3. The **[**board**]** **department** may enter into an agreement with the holder of the loans for which repayments are made under the large animal veterinary medicine loan repayment program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

340.347. LIABILITY FOR AMOUNTS PAID BY PROGRAM, WHEN — BREACH OF CONTRACT, AMOUNT OWED TO STATE. — 1. An individual who has entered into a written contract with the **[**board**]** **department** or an individual who is enrolled **[**in a course of study**]** **at the college** and fails to maintain an acceptable level of academic standing **[**in the educational institution in which such individual is enrolled**]** or voluntarily terminates such enrollment or is dismissed **[**from such educational institution**]** before completion of such course of study or fails to become licensed pursuant to this chapter within one year after graduation shall be liable to the state for the amount which has been paid on such individual's behalf pursuant to the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts paid by the state on behalf of the individual, including interest; and

(2) An amount equal to the unserved obligation penalty, which is the total number of months of obligated service which were not completed by an individual, multiplied by five hundred dollars.

3. The **[**board**]** **department** may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

340.375. DEPARTMENT TO ADMINISTER LOAN PROGRAM — ADVISORY PANEL TO BE APPOINTED, MEMBERS, DUTIES — RULEMAKING AUTHORITY. — **1. The department of agriculture shall implement and administer the large animal veterinary student loan program established under sections 340.375 to 340.405, and the large animal veterinary medicine loan repayment program established under sections 340.335 to 340.350.**

2. An advisory panel of not more than five members shall be appointed by the director. The panel shall consist of three licensed large animal veterinarians, the dean of

the college or his or her designee, and one public member from the agricultural sector. The panel shall make recommendations to the director on the content of any rules, regulations or guidelines under sections 340.335 to 340.405 prior to their promulgation. The panel may make recommendations to the director regarding fund allocations for loans and loan repayment based on current veterinarian shortage needs.

3. The department of agriculture shall promulgate reasonable rules and regulations for the administration of sections 340.375 to 340.405, including but not limited to rules for disbursements and repayment of loans. It shall prescribe the form, the time and method of filing applications and supervise the proceedings thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

340.381. FUND CREATED, USE OF MONEYS. — There is hereby created in the state treasury the "Veterinary Student Loan Payment Fund", which shall consist of general revenue appropriated to the large animal veterinary student loan program, voluntary contributions to support or match program activities, money collected under section 340.396, and funds received from the federal government. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 340.375 to 340.405. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

340.384. REPAYMENT OF PRINCIPAL AND INTEREST, CONTRACT FOR. — The department of agriculture shall enter into a contract with each qualified applicant receiving financial assistance under the provisions of sections 340.375 to 340.405 for repayment of the principal and interest.

340.387. APPLICATION FOR FINANCIAL ASSISTANCE. — Eligible students may apply to the department for financial assistance under the provisions of sections 340.375 to 340.405. If, at the time of application for a loan, a student has formally applied for acceptance at the college, receipt of financial assistance is contingent upon acceptance and continued enrollment at the college. A qualified applicant may receive financial assistance for each academic year he or she remains a student in good standing at the college.

340.390. AWARDING OF LOANS, PRIORITY. — Up to six qualified applicants per academic year may be awarded loans of up to eighty thousand dollars per applicant under the provisions of sections 340.375 to 340.405. Priority for loans shall be given to eligible students who have established financial need. All financial assistance shall be made from funds credited to the veterinary student loan payment fund.

340.393. SCHEDULES OF REPAYMENT TO BE ESTABLISHED, INTEREST RATE. — The department shall establish schedules for repayment of the principal and interest on any financial assistance made under the provisions of sections 340.375 to 340.405. Interest at

the rate of nine and one-half percent per annum shall be charged on all financial assistance made under the provisions of sections 340.375 to 340.405, but the interest and principal of the total financial assistance granted to a qualified applicant at the time of the successful completion of a doctor of veterinary medicine degree program shall be forgiven through qualified employment.

340.396. REPAYMENT OT BEGIN, WHEN — DEPOSIT OF REPAID LOAN MONEYS. — The financial assistance recipient shall repay the financial assistance principal and interest beginning not more than one year after completion of the degree for which the financial assistance was made in accordance with the repayment contract. If an eligible student ceases his or her study prior to successful completion of a degree or graduation from the college, interest at the rate specified in section 340.393 shall be charged on the amount of financial assistance received from the state under the provisions of sections 340.375 to 340.405, and repayment, in accordance with the repayment contract, shall begin within ninety days of the date the financial aid recipient ceased to be an eligible student. All funds repaid by recipients of financial assistance to the department shall be deposited in the veterinary student loan payment fund for use pursuant to sections 340.375 to 340.405.

340.399. DEFERRAL OF INTEREST AND PRINCIPAL PAYMENTS, WHEN. — The department shall grant a deferral of interest and principal payments to a financial assistance recipient who is pursuing a post-degree training program, or upon special conditions established by the department. The deferral shall not exceed four years. The status of each deferral shall be reviewed annually by the department to ensure compliance with the intent of this section.

340.402. ACTION TO RECOVER AMOUNTS DUE AUTHORIZED. — When necessary to protect the interest of the state in any financial assistance transaction under sections 340.375 to 340.405, the department may institute any action to recover any amount due.

340.405. LIMITATION ON REQUIREMENTS — EXPIRATION DATE OF PROGRAM. — 1. Sections 340.375 to 340.405 shall not be construed to require the department to enter into contracts with individuals who qualify for education loans or loan repayment programs when federal, state and local funds are not available for such purposes.

2. Sections 340.375 to 340.405 shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

3. Sections 340.375 to 340.405 shall expire on June 30, 2013.

Approved July 13, 2007

SB 322 [HCS SB 322]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands commercial zone areas in certain parts of the state

AN ACT to repeal sections 8.007, 8.110, 8.120, 8.177, 8.250, 8.255, 8.291, and 304.190, RSMo, and to enact in lieu thereof six new sections relating to construction-related activities.

SECTION
A. Enacting clause.
8.007. Duties of the commission — second capitol commission fund created, lapse to general revenue prohibited — copyright and trademark permitted, when.
8.110. Division of facilities management, design and construction created, duties.
8.250. Contracts for projects by state or certain subdivisions, bidding required, when — prohibition against dividing project into component parts.
8.255. Standing contracts, advertisement and bids — director, duties — agency reports.
8.291. Negotiation for contract — not applicable for certain political subdivisions.
304.190. Height and weight regulations (cities of 75,000 or more) — commercial zone defined.
8.120. Division of design and construction created, duties.
8.177. Missouri capitol police officers, powers and duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.007, 8.110, 8.120, 8.177, 8.250, 8.255, 8.291, and 304.190, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 8.007, 8.110, 8.250, 8.255, 8.291, and 304.190, to read as follows:

8.007. DUTIES OF THE COMMISSION — SECOND CAPITOL COMMISSION FUND CREATED, LAPSE TO GENERAL REVENUE PROHIBITED — COPYRIGHT AND TRADEMARK PERMITTED, WHEN. — 1. The commission shall:

(1) Exercise general supervision of the administration of sections 8.001 to 8.007;

(2) Evaluate and recommend courses of action on the restoration and preservation of the capitol, the preservation of historical significance of the capitol and the history of the capitol;

(3) Evaluate and recommend courses of action to ensure accessibility to the capitol for physically disabled persons;

(4) Advise, consult, and cooperate with the office of administration, the archives division of the office of the secretary of state, the historic preservation program within the department of natural resources, the division of tourism within the department of economic development and the historical society of Missouri in furtherance of the purposes of sections 8.001 to 8.007;

(5) Be authorized to cooperate or collaborate with other state agencies and not-for-profit organizations to publish books and manuals concerning the history of the capitol, its improvement or restoration;

(6) Before each September first, recommend options to the governor on budget allocation for improvements or restoration of the capitol premises;

(7) Encourage, participate in, or conduct studies, investigations, and research and demonstrations relating to improvement and restoration of the state capitol it may deem advisable and necessary for the discharge of its duties pursuant to sections 8.001 to 8.007; and

(8) Hold hearings, issue notices of hearings and take testimony as the commission deems necessary.

2. The "Second Capitol Commission Fund" is hereby created in the state treasury. Any moneys received from sources other than appropriation by the general assembly, including from private sources, gifts, donations and grants, shall be credited to the second capitol commission fund and shall be appropriated by the general assembly.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the second capitol commission fund shall not be transferred and placed to the credit of the general revenue fund.

4. The commission is authorized to accept all gifts, bequests and donations from any source whatsoever. The commission may also apply for and receive grants consistent with the purposes of sections 8.001 to 8.007. All such gifts, bequests, donations and grants shall be used or expended upon appropriation in accordance with their terms or stipulations, and the gifts, bequests, donations or grants may be used or expended for the preservation, restoration and improved accessibility and for promoting the historical significance of the capitol.

5. The commission may copyright or obtain a trademark for any photograph, written work, art object, or any product created of the capitol or capitol grounds. The commission may grant access or use of any such works to other organizations or individuals for a fee, at its sole discretion, or waive all fees. All funds obtained through licensing fees shall be credited to the capitol commission fund in a manner similar to funds the commission receives as gifts, donations, and grants. The funds shall be used for repairs, refurbishing, or to create art, exhibits, decorations, or other beautifications or adornments to the capitol or its grounds.

8.110. DIVISION OF FACILITIES MANAGEMENT, DESIGN AND CONSTRUCTION CREATED, DUTIES. — There is hereby created within the office of administration a "Division of Facilities Management**, Design, and Construction", which shall supervise the design, construction, renovations, maintenance, and repair of state facilities, except as provided in sections 8.015 and 8.017, and except those facilities belonging to the institutions of higher education, the highways and transportation commission, and the conservation commission, which shall be responsible to review all requests for appropriations for capital improvements**. Except as otherwise provided by law, the director of the division of facilities management**, design, and construction** shall be responsible for the management and operation of office buildings titled in the name of the governor. The director shall exercise all diligence to ensure that all facilities within his management and control comply with the designated building codes; that they are clean, safe and secure, and in proper repair; and that they are adequately served by all necessary utilities.

8.250. CONTRACTS FOR PROJECTS BY STATE OR CERTAIN SUBDIVISIONS, BIDDING REQUIRED, WHEN — PROHIBITION AGAINST DIVIDING PROJECT INTO COMPONENT PARTS. — 1. "Project" for the purposes of this chapter means the labor or material necessary for the construction, renovation, or repair of improvements to real property so that the work, when complete, shall be ready for service for its intended purpose and shall require no other work to be a completed system or component.

2. All contracts for projects, the cost of which exceeds twenty-five thousand dollars, entered into by any **[**officer or agency of this state or of any**]** city containing five hundred thousand inhabitants or more shall be let to the lowest, responsive, responsible bidder or bidders after notice and publication of an advertisement for five days in a daily newspaper in the county where the work is located, or at least twice over a period of ten days or more in a newspaper in the county where the work is located, and in two daily newspapers in the state which do not have less than fifty thousand daily circulation, and by such other means as are determined to be most likely to reach potential bidders.

3. **All contracts for projects, the cost of which exceeds one hundred thousand dollars, entered into by an officer or agency of this state shall be let to the lowest, responsive, responsible bidder or bidders based on preestablished criteria after notice and publication of an advertisement for five days in a daily newspaper in the county where the work is located, or at least twice over a period of ten days or more in a newspaper in the county where the work is located and in one daily newspaper in the state which does not have less than fifty thousand daily circulation and by such other means as determined to be most likely to reach potential bidders. For all contracts for projects between twenty-five thousand dollars and one hundred thousand dollars, a minimum of three contractors shall be solicited with the award being made to the lowest responsive, responsible bidder based on preestablished criteria.**

4. The number of such public bids shall not be restricted or curtailed, but shall be open to all persons complying with the terms upon which the bids are requested or solicited unless debarred for cause. No contract shall be awarded when the amount appropriated for same is not sufficient to complete the work ready for service.

[4.**]** **5.** Dividing a project into component labor or material allocations for the purpose of avoiding bidding or advertising provisions required by this section is specifically prohibited.

8.255. STANDING CONTRACTS, ADVERTISEMENT AND BIDS — DIRECTOR, DUTIES — AGENCY REPORTS. — 1. The director may authorize any agency of the state to establish standing contracts for the purpose of accomplishing construction, renovation, maintenance and repair projects not exceeding one hundred thousand dollars. Such contracts shall be advertised and bid in the same manner as contracts for work which exceeds one hundred thousand dollars, except that each contract shall allow for multiple projects, the cost of each of which does not exceed one hundred thousand dollars. Each contract shall be of a stated duration and shall have a stated maximum total expenditure. **For job order contracts, the total expenditure per project shall not exceed three hundred thousand dollars.**

2. The director, with full documentation, shall have the authority to authorize any agency to contract for any design or construction, renovation, maintenance, or repair work which in his judgment can best be procured directly by such agency. The director shall establish, by rule, the procedures which the agencies must follow to procure contracts for design, construction, renovation, maintenance or repair work. Each agency which procures such contracts pursuant to a delegation shall file an annual report as required by rule. The director shall provide general supervision over the process. The director may establish procedures by which such contracts are to be procured, either generally or in accordance with each authorization.

3. The director, in his sole discretion, may with full documentation approve a recommendation from a project designer that a material, product or system within a specification for construction, renovation or repair work be designated by brand, trade name or individual mark, when it is determined to be in the best interest of the state. The specification may include a preestablished price for purchase of the material, product or system where required by the director.

8.291. NEGOTIATION FOR CONTRACT — NOT APPLICABLE FOR CERTAIN POLITICAL SUBDIVISIONS. — 1. The agency shall list three highly qualified firms. The agency shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

2. For a basis for negotiations the agency shall prepare a written description of the scope of the proposed services.

3. If the agency is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The agency shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The agency shall then undertake negotiations with the third qualified firm.

4. If the agency is unable to negotiate a contract with any of the selected firms, the agency shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of sections 8.285 to 8.291.

5. The provisions of sections 8.285 to 8.291 shall not apply to any political subdivision which adopts a **[**formal**]** **qualification-based selection** procedure **commensurate with state policy** for the procurement of architectural, engineering and land surveying services.

304.190. HEIGHT AND WEIGHT REGULATIONS (CITIES OF 75,000 OR MORE) — COMMERCIAL ZONE DEFINED. — 1. No motor vehicle, unladen or with load, operating exclusively within the corporate limits of cities containing seventy-five thousand inhabitants or more or within two miles of the corporate limits of the city or within the commercial zone of the city shall exceed fifteen feet in height.

2. No motor vehicle operating exclusively within any said area shall have a greater weight than twenty-two thousand four hundred pounds on one axle.

3. The "commercial zone" of the city is defined to mean that area within the city together with the territory extending one mile beyond the corporate limits of the city and one mile additional for each fifty thousand population or portion thereof provided, however, the commercial zone surrounding a city not within a county shall extend **[**eighteen**]** **twenty-five** miles beyond the corporate limits of any such city not located within a county and shall also extend throughout any **[**first class charter**]** county **with a charter form of government** which adjoins that city **and throughout any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that is adjacent to such county adjoining such city**; further, provided, however, the commercial zone of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants shall extend twelve miles beyond the corporate limits of any such city; except that this zone shall extend from the southern border of such city's limits, beginning with the western-most freeway, following said freeway south to the first intersection with a multilane undivided highway, where the zone shall extend south along said freeway to include a city of the fourth classification with more than eight thousand nine hundred but less than nine thousand inhabitants, and shall extend north from the intersection of said freeway and multilane undivided highway along the multilane undivided highway to the city limits of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants**, and shall extend east from the city limits of a special charter city with more than two hundred seventy-five but fewer than three hundred seventy-five inhabitants along state route 210 and northwest from the intersection of state route 210 and state route 10 to include the boundaries of any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county; further provided, however, the commercial zone of a city of the third classification with more than nine thousand six hundred fifty but fewer than nine thousand eight hundred inhabitants shall extend south from the city limits along U.S. highway 61 to the intersection of state route OO in a county of the third classification without a township form of government and with more than seventeen thousand eight hundred but fewer than seventeen thousand nine hundred inhabitants**. In no case shall the commercial zone of a city be reduced due to a loss of population. The provisions of this section shall not apply to motor vehicles operating on the interstate highways in the area beyond two miles of a corporate limit of the city unless the United States Department of Transportation increases the allowable weight limits on the interstate highway system within commercial zones. In such case, the mileage limits established in this section shall be automatically increased only in the commercial zones to conform with those authorized by the United States Department of Transportation.

4. Nothing in this section shall prevent a city, county, or municipality, by ordinance, from designating the routes over which such vehicles may be operated.

5. No motor vehicle engaged in interstate commerce, whether unladen or with load, whose operations in the state of Missouri are limited exclusively to the commercial zone of a first class home rule municipality located in a county with a population between eighty thousand and ninety-five thousand inhabitants which has a portion of its corporate limits contiguous with a portion of the boundary between the states of Missouri and Kansas, shall have a greater weight than twenty-two thousand four hundred pounds on one axle, nor shall exceed fifteen feet in height.

[8.120. DIVISION OF DESIGN AND CONSTRUCTION CREATED, DUTIES. — There is hereby created within the office of administration a "Division of Design and Construction", which shall supervise the design, construction, renovations and repair of state facilities, except as provided in sections 8.015 and 8.017, and except in those belonging to the institutions of higher education

and the department of conservation. The division of design and construction shall be responsible to review all requests for appropriations for capital improvements.**]**

[8.177. MISSOURI CAPITOL POLICE OFFICERS, POWERS AND DUTIES. — 1. The director of the department of public safety shall employ Missouri capitol police officers for public safety at the seat of state government. Each Missouri capitol police officer, upon appointment, shall take and subscribe an oath of office to support the constitution and laws of the United States and the state of Missouri and shall receive a certificate of appointment, a copy of which shall be filed with the secretary of state, granting such police officers all the same powers of arrest held by other police officers to maintain order and preserve the peace in all state-owned or leased buildings, and the grounds thereof, at the seat of government and such buildings and grounds within the county which contains the seat of government.

2. The director of the department of public safety shall appoint a sufficient number of Missouri capitol police officers, with available appropriations, as appropriated specifically for the purpose designated in this subsection, so that the capitol grounds may be patrolled at all times, and that traffic and parking upon the capitol grounds and the grounds of other state buildings owned or leased within the capital city and the county which contains the seat of government may be properly controlled. Missouri capitol police officers may make arrests for the violation of parking and traffic regulations promulgated by the office of administration.

3. Missouri capitol police officers shall be authorized to arrest a person anywhere in the county that contains the seat of state government, when there is probable cause to believe the person committed a crime within capitol police jurisdiction or when a person commits a crime within capitol police jurisdiction or when a person commits a crime in the presence of an on-duty capitol police officer.**]**

Approved June 30, 2007

SB 339 [SCS SB 339]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the "Fairness in Public Construction Act"

AN ACT to repeal section 290.250, RSMo, and to enact in lieu thereof eight new sections relating to public contracts, with penalty provisions.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 290.250, RSMo, is repealed and eight new sections enacted in lieu thereof, to be known as sections 34.203, 34.206, 34.209, 34.212, 34.216, 290.095, 290.250, and 1, to read as follows:

34.203. CITATION OF LAW. — The provisions of sections 34.203 to 34.216 shall be known and may be cited as the "Fairness in Public Construction Act".

34.206. PURPOSE STATEMENT. — The purpose of sections 34.203 to 34.216 is to fulfill the state's proprietary objectives in maintaining and promoting the economical, nondiscriminatory, and efficient expenditures of public funds in connection with publicly funded or assisted construction projects. Nothing in sections 34.203 to 34.216 shall prohibit employers or other parties covered by the National Labor Relations Act from entering into agreements or engaging in any other activity arguably protected by law, nor shall any aspect of sections 34.203 to 34.216 be interpreted in such a way as to interfere with the labor relations of parties covered by the National Labor Relations Act.

34.209. REQUIREMENTS FOR CERTAIN CONTRACTS FOR CONSTRUCTION OF PROJECTS. — The state, any agency of the state, or any instrumentality thereof, when engaged in procuring or letting contracts for construction of a project that is funded by greater than fifty percent of state funds, shall ensure that bid specification, project agreements, and other controlling documents entered into, required, or subject to approval by the state, agency, or instrumentality do not:

(1) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects; or

(2) Discriminate against bidders, offerors, contractors, or subcontractors for entering or refusing to enter or to remain signatory or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects.

34.212. GRANTS AND COOPERATIVE AGREEMENTS FOR CONSTRUCTION PROJECTS PROHIBITED, WHEN. — 1. The state, any agency of the state, or any instrumentality thereof shall not issue grants or enter into cooperative agreements for construction projects, a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant or cooperative agreement contain any of the elements specified in section 34.209.

2. The state, any agency of the state, or any instrumentality thereof shall exercise such authority as may be required to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements specified in section 34.209 in connection with any grant or cooperative agreement awarded or entered into. Nothing in sections 34.203 to 34.216 shall prohibit contractors or subcontractors from voluntarily entering into agreements described in section 34.209.

34.216. UNION-ONLY PROJECT LABOR AGREEMENTS PERMITTED, WHEN — COMPLIANCE, PROCEDURE. — 1. For purposes of this section, the term "project labor agreement" shall be defined as a multi-employer, multi-union pre-hire agreement designed to systemize labor relations at a construction site that is required by the state or a political subdivision of the state as a condition of a bid specification for a construction project, thereby insuring that all contractors and subcontractors on a project comply with the terms of a union-only agreement.

2. The state or a political subdivision of the state may enter into a union-only project labor agreement for the procurement of construction services, except as provided in section 34.209, on a project-by-project basis only if the project is funded fifty percent or less with state funds and only on the condition that:

(1) The state or political subdivision must analyze the impact of a union-only project labor agreement and consider:

(a) Whether the union-only project labor agreement advances the interests of the public entity and its citizens;

(b) Whether the union-only project labor agreement is appropriate considering the complexity, size, cost impact, and need for efficiency on the project;

(c) Whether the union-only project labor agreement impacts the availability of a qualified work force; and

(d) Whether the scope of the union-only project labor agreement has a business justification for the project as bid;

(2) The state or political subdivision shall publish the findings of subdivision (1) of this subsection in a document titled "Intent to Enter Into a Union Project Labor Agreement". The document shall establish a rational basis upon which the state or political subdivision bases its intent to require a union-only project labor agreement for the project;

(3) No fewer than fourteen days but not more than thirty days following publication of the notice of a public hearing, the state or political subdivision shall conduct a public hearing on whether to proceed with its intent to require a union-only project labor agreement;

(4) Within thirty days of the public hearing set forth in subdivision (3) of this subsection, the state or political subdivision shall publish its determination on whether or not to require a union-only project labor agreement.

3. (1) Any interested party may, within thirty days of the determination of the state or political subdivision as set forth in subdivision (4) of subsection 2 of this section, appeal to the labor and industrial relations commission for a determination as to whether the state or political subdivision complied with subsection 2 of this section for a union-only project labor agreement as defined in subsection 1 of this section.

(2) The labor and industrial relations commission shall consider the appeal in subdivision (1) of this section under a rational basis standard of review.

(3) The labor and industrial relations commission shall hold a hearing on the appeal within sixty days of the filing of the appeal. The commission shall issue its decision within ninety days of the filing date of the appeal.

(4) Any aggrieved party from the labor and industrial relations commission decision set forth in subdivision (3) of this subsection may file an appeal with the circuit court of Cole County within thirty days of the commission's decision.

290.095. WAGE SUBSIDIES, BID SUPPLEMENTS, AND REBATES FOR EMPLOYMENT PROHIBITED, WHEN — VIOLATION, PENALTY. — 1. No contractor or subcontractor may directly or indirectly receive a wage subsidy, bid supplement, or rebate for employment on a public works project if such wage subsidy, bid supplement, or rebate has the effect of reducing the wage rate paid by the employer on a given occupational title below the prevailing wage rate as provided in section 290.262.

2. In the event a wage subsidy, bid supplement, or rebate is lawfully provided or received under subsections 1 or 2 of this section, the entity receiving such subsidy, supplement, or rebate shall report the date and amount of such subsidy, supplement, or rebate to the public body within thirty days of receipt of payment. This disclosure report shall be a matter of public record under chapter 610, RSMo.

3. Any employer in violation of this section shall owe to the public body double the dollar amount per hour that the wage subsidy, bid supplement, or rebate has reduced the wage rate paid by the employer below the prevailing wage rate as provided in section 290.262 for each hour that work was performed. It shall be the duty of the department to calculate the dollar amount owed to the public body under this section.

290.250. PREVAILING WAGE, INCORPORATION INTO CONTRACTS — FAILURE TO PAY, PENALTY — COMPLAINTS OF VIOLATION, PUBLIC BODY OR PRIME CONTRACTOR TO WITHHOLD PAYMENT — DETERMINATION OF A VIOLATION, INVESTIGATION REQUIRED — EMPLOYER'S RIGHT TO DISPUTE — ENFORCEMENT PROCEEDING PERMITTED, WHEN. — 1.

Every public body authorized to contract for or construct public works, before advertising for bids or undertaking such construction shall request the department to determine the prevailing rates of wages for workmen for the class or type of work called for by the public works, in the locality where the work is to be performed. The department shall determine the prevailing hourly rate of wages in the locality in which the work is to be performed for each type of workman required to execute the contemplated contract and such determination or schedule of the prevailing hourly rate of wages shall be attached to and made a part of the specifications for the work. The public body shall then specify in the resolution or ordinance and in the call for bids for the contract, what is the prevailing hourly rate of wages in the locality for each type of workman needed to execute the contract and also the general prevailing rate for legal holiday and overtime work. It shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, to pay not less than the specified rates to all workmen employed by them in the execution of the contract. The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing hourly rate of wages shall be paid to all workmen performing work under the contract. **[**It shall also require in all contractor's bonds that the contractor include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract.**]** The **[**contractor**] employer** shall forfeit as a penalty to the state, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded **[**ten**] one hundred** dollars for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under said contract, by him or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of sections 290.210 to 290.340 committed in the course of the execution of the contract, and, when making payments to the contractor becoming due under said contract, to withhold and retain therefrom all sums and amounts due and owing as a result of any violation of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of said subcontractor's failure to comply with the terms of sections 290.210 to 290.340, and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

2. In determining whether a violation of sections 290.210 to 290.340 has occurred, and whether the penalty under subsection 1 of this section shall be imposed, it shall be the duty of the department to investigate any claim of violation. Upon completing such investigation, the department shall notify the employer of its findings. If the department concludes that a violation of sections 290.210 to 290.340 has occurred and a penalty may be due, the department shall notify the employer of such finding by providing a notice of penalty to the employer. Such penalty shall not be due until forty-five days after the date of the notice of the penalty.

3. The employer shall have the right to dispute such notice of penalty in writing to the department within forty-five days of the date of the notice. Upon receipt of this written notice of dispute, the department shall notify the employer of the right to resolve such dispute through arbitration. The state and the employer shall submit to an arbitration process to be established by the department by rule, and in conformance with the guidelines and rules of the American Arbitration Association or other arbitration process mutually agreed upon by the employer and the state. If at any time prior to the department pursuing an enforcement action to enforce the monetary penalty provisions of subsection 1 of this section against the employer, the employer pays the backwages as determined by either the department or the arbitrator, the department shall be precluded from initiating any enforcement action to impose the monetary penalty provisions of subsection 1 of this section.

4. If the employer fails to pay all wages due as determined by the arbitrator within forty-five days following the conclusion of the arbitration process, or if the employer fails to exercise the right to seek arbitration, the department may then pursue an enforcement action to enforce the monetary penalty provisions of subsection 1 of this section against the employer. If the court orders payment of the penalties as prescribed in subsection 1 of this section, the department shall be entitled to recover its actual cost of enforcement from such penalty amount.

5. Nothing in this section shall be interpreted as precluding an action for enforcement filed by an aggrieved employee as otherwise provided in law.

SECTION 1. NONSEVERABILITY CLAUSE. — Notwithstanding the provisions of section 1.140, RSMo, the provisions of sections 290.095 and 290.250, RSMo, and sections 34.203 to 34.216, RSMo, of this act shall not be severable. In the event a court of competent jurisdiction rules that any part of this act is unenforceable, the entire act shall be rendered null and void.

Approved March 22, 2007

SB 352 [SB 352]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds vehicles driven by conservation agents to the list of vehicles considered "emergency vehicles"

AN ACT to repeal section 304.022, RSMo, and to enact in lieu thereof one new section relating to emergency vehicles, with penalty provisions.

SECTION

A. Enacting clause.

304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 304.022, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.022, to read as follows:

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary

vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol, the Missouri capitol police, **a conservation agent,** or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections who, as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.025;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class A misdemeanor.

Approved June 13, 2007

SB 376 [CCS HCS SB 376]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the expiration date from 2010 to 2015 for the Division of Tourism Supplemental Revenue Fund

AN ACT to repeal section 620.467, RSMo, and to enact in lieu thereof two new sections relating to financial impact on tourism, with an emergency clause.

SECTION
A. Enacting clause.
171.035. Make-up days not required, when.
620.467. Division of tourism supplemental revenue fund created — use of fund — lapse to general revenue prohibited — funding — effective and expiration dates.
B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 620.467, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 171.035 and 620.467, to read as follows:

171.035. MAKE-UP DAYS NOT REQUIRED, WHEN. — Any school district that cancelled classes or dismissed classes early for weather-related reasons for any of its schools for any days from January 11, 2007, to January 22, 2007, shall not be required to make up the days or hours lost during such time. The requirement for scheduling two-thirds of the missed days into the next year's calendar under subsection 1 of section 171.033 shall be waived for the 2007-2008 school year.

620.467. DIVISION OF TOURISM SUPPLEMENTAL REVENUE FUND CREATED — USE OF FUND — LAPSE TO GENERAL REVENUE PROHIBITED — FUNDING — EFFECTIVE AND EXPIRATION DATES. — 1. The state treasurer shall annually deposit an amount prescribed in this section out of the general revenue fund pursuant to section 144.700, RSMo, in a fund hereby created in the state treasury, to be known as the "Division of Tourism Supplemental Revenue Fund". The state treasurer shall administer the fund, and the moneys in such fund, except the appropriate percentage of any refund made of taxes collected under the provisions of chapter 144, RSMo, shall be used solely by the division of tourism of the department of economic development to carry out the duties and functions of the division as prescribed by law. Moneys deposited in the division of tourism supplemental revenue fund shall be in addition to a budget base in each fiscal year. For fiscal year 1994, such budget base shall be six million two hundred thousand dollars, and in each succeeding fiscal year the budget base shall be the prior fiscal year's general revenue base plus any additional appropriations made to the division of tourism, including one hundred percent of the prior fiscal year's deposits made to the division of tourism supplemental revenue fund pursuant to this section. The general revenue base shall decrease by ten percent in each fiscal year following fiscal year 1994. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the division of tourism supplemental revenue fund at the end of any biennium shall not be deposited to the credit of the general revenue fund.

2. In fiscal years 1995 to **[**2010**]** **2015**, a portion of general revenue determined pursuant to this subsection shall be deposited to the credit of the division of tourism supplemental revenue fund pursuant to subsection 1 of this section. The director of revenue shall determine the amount deposited to the credit of the division of tourism supplemental revenue fund in each fiscal year by computing the previous year's total appropriation into the division of tourism supplemental revenue fund and adding to such appropriation amount the total amount derived from the retail

sale of tourist-oriented goods and services collected pursuant to the following sales taxes: state sales taxes; sales taxes collected pursuant to sections 144.010 to 144.430, RSMo, that are designated as local tax revenue to be deposited in the school district trust fund pursuant to section 144.701, RSMo; sales taxes collected pursuant to section 43(a) of article IV of the Missouri Constitution; and sales taxes collected pursuant to section 47(a) of article IV of the Missouri Constitution. If the increase in such sales taxes derived from the retail sale of tourist-oriented goods and services in the fiscal year three years prior to the fiscal year in which each deposit shall be made is at least three percent over such sales taxes derived from the retail sale of tourist-oriented goods and services generated in the fiscal year four years prior to the fiscal year in which each deposit shall be made, an amount equal to one-half of such sales taxes generated above a three percent increase shall be calculated by the director of revenue and the amount calculated shall be deposited by the state treasurer to the credit of the division of tourism supplemental revenue fund.

3. Total deposits in the supplemental revenue fund in any fiscal year pursuant to subsections 1 and 2 of this section shall not exceed the amount deposited into the division of tourism supplemental revenue fund in the fiscal year immediately preceding the current fiscal year by more than three million dollars.

4. As used in this section, "sales of tourism-oriented goods and services" are those sales by businesses registered with the department of revenue under the following SIC Codes:

(1) SIC Code 5811;
(2) SIC Code 5812;
(3) SIC Code 5813;
(4) SIC Code 7010;
(5) SIC Code 7020;
(6) SIC Code 7030;
(7) SIC Code 7033;
(8) SIC Code 7041;
(9) SIC Code 7920;
(10) SIC Code 7940;
(11) SIC Code 7990;
(12) SIC Code 7991;
(13) SIC Code 7992;
(14) SIC Code 7996;
(15) SIC Code 7998;
(16) SIC Code 7999; and
(17) SIC Code 8420.

5. Prior to each appropriation from the division of tourism supplemental revenue fund, the division of tourism shall present to the committee on tourism, recreational and cultural affairs of the house of representatives and to the transportation and tourism committee of the senate, or their successors, a promotional marketing strategy including, but not limited to, targeted markets, duration of market plans, ensuing market strategies, and the actual and estimated investment return, if any, resulting therefrom.

6. This section shall become effective July 1, 1994. This section shall expire June 30, **[**2010**]** **2015**.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify potential school scheduling and funding problems, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 3, 2007

SB 384 [HCS SCS SB 384]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires persons replacing stolen license plate tabs issued prior to January 1, 2009, to submit notarized affidavits and persons replacing stolen tabs issued on or after January 1, 2009, to submit a police report, also allows license plates to be encased in transparent covers

AN ACT to repeal sections 301.130 and 301.301, RSMo, and to enact in lieu thereof three new sections relating to deceptive practices, with an emergency clause for a certain section.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.130 and 301.301, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 301.130, 301.301, and 407.485, to read as follows:

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from

the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. **Each such plate may be encased in a transparent cover so long as the plate is plainly visible and its reflective qualities are not impaired.** License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for

such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. Commencing January 1, 2009, the director of revenue shall cause to be reissued new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, 2009, and December 31, 2011, applicants for registration of trailers or semitrailers with license plates that expire between January 1, 2009, and December 31, 2011, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee, based on the actual cost of the reissuance, to cover the cost of the newly reissued plates required by this subsection. The additional fee prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection.

301.301. STOLEN LICENSE PLATE TABS, REPLACEMENT AT NO COST, WHEN, PROCEDURE, LIMITATION. — 1. Any person replacing a stolen license plate tab **issued on or after January 1, 2009,** may receive at no cost up to two sets of two license plate tabs per year when the application for the replacement tab is accompanied with a police report that is corresponding with the stolen license plate tab.

2. Any person replacing a stolen license plate tab issued prior to January 1, 2009, may receive at no cost up to two sets of two license plate tabs per year when the application for the replacement tab is accompanied with a notarized affidavit verifying that such license plate tab or tabs were stolen.

407.485. DONATIONS OF UNWANTED HOUSEHOLD ITEMS, COLLECTION OF DEEMED UNFAIR BUSINESS PRACTICE, WHEN. — 1. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items for profit unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE RESOLD FOR PROFIT".

2. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items where some or all of the proceeds from the sale are directly given to a not for profit entity unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: " DONATIONS TO THE FOR PROFIT COMPANY: (name of the company) ARE

SOLD FOR PROFIT AND (% of proceeds donated to the not for profit) % OF ALL PROCEEDS ARE DONATED TO (name of the non-profit beneficiary organization's name)."

3. It shall be an unfair business practice, in violation of section 407.020 for a for profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items, where such for profit entity is paid a flat fee, not contingent upon the proceeds generated by the sale of the collected goods, and 100% of the proceeds from the sale of the items are given directly to the not for profit, unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "THIS DONATION RECEPTACLE IS OPERATED BY THE FOR PROFIT ENTITY: (name of the for profit/individual) ON BEHALF of (name of the non-profit beneficiary organization's name)".

4. Nothing in section 407.485 shall apply to paper, glass, or aluminum products that are donated for the purpose of being recycled in the manufacture of other products.

5. Any entity which, on or before June 1, 2007, has distributed 100 or more separate public receptacles within the state of Missouri to which the provisions of subsections 2 or 3 of this section would apply shall be deemed in compliance with the signage requirements imposed by this section for the first six months after the effective date of this legislation, provided such entity has made or is making good faith efforts to bring all signage in compliance with the provisions of this section and all such signage is in complete compliance no later than six months after the effective date of this legislation.

SECTION B. EMERGENCY CLAUSE. — Because of the need to provide Missouri motorists with a method to replace stolen license plate tabs without administrative red tape and because of the need to verify the payment of registration fees, the repeal and reenactment of section 301.301 is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency within the meaning of the constitution, and the repeal and reenactment of section 301.301 shall be in full force and effect upon its passage and approval.

Approved June 26, 2007

SB 389 [SS#6 SCS SB 389]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies several provisions regarding the state's higher education system

AN ACT to repeal sections 160.254, 173.005, 173.200, 173.203, 173.205, 173.210, 173.215, 173.220, 173.225, 173.230, 173.250, 173.355, 173.360, 173.385, 173.425, 173.616, 173.810, 173.813, 173.816, 173.820, 173.825, 173.827, 173.830, and 313.835, RSMo, and to enact in lieu thereof thirty-one new sections relating to higher education, with penalty provisions.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.254, 173.005, 173.200, 173.203, 173.205, 173.210, 173.215, 173.220, 173.225, 173.230, 173.250, 173.355, 173.360, 173.385, 173.425, 173.616, 173.810, 173.813, 173.816, 173.820, 173.825, 173.827, 173.830, and 313.835, RSMo, are repealed and thirty-one new sections enacted in lieu thereof, to be known as sections 160.254, 168.700, 168.702, 172.950, 173.005, 173.093, 173.125, 173.250, 173.355, 173.360, 173.385, 173.386, 173.392, 173.393, 173.425, 173.475, 173.616, 173.1000, 173.1003,

173.1004, 173.1006, 173.1101, 173.1102, 173.1103, 173.1104, 173.1105, 173.1106, 173.1107, 173.1108, 313.835, and 1, to read as follows:

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT — MEETINGS — CHAIRMAN — QUORUM — DUTIES — EXPENSES. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of seven members of the senate and seven members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee **[**may**]** **shall** meet **[**and function in any year that the president pro tem of the senate and the speaker of the house of representatives appoint members to serve on the committee**]** **at least twice a year**. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.

3. The committee shall select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

(1) Review and monitor the progress of education in the state's public schools **and institutions of higher education**;

(2) Receive reports from the commissioner of education concerning the public schools **and from the commissioner of higher education concerning institutions of higher education**;

(3) Conduct a study and analysis of the public school system;

(4) Make recommendations to the general assembly for legislative action; **[**and**]**

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant**;**

(6) Monitor the establishment of performance measures as required by section 173.1006, RSMo, and report on their establishment to the governor and the general assembly;

(7) Conduct studies and analysis regarding:

(a) The higher education system, including financing public higher education and the provision of financial aid for higher education; and

(b) The feasibility of including students enrolled in proprietary schools, as that term is defined in section 173.600, RSMo, in all state-based financial aid programs;

(8) Annually review the collection of information under section 173.093, RSMo, to facilitate a more accurate comparison of the actual costs at public and private higher education institutions;

(9) Within three years of the effective date of this act, review a new model for the funding of public higher education institutions upon submission of such model by the coordinating board for higher education;

(10) Within three years of the effective date of this act, review the impact of the higher education student funding act established in sections 173.1000 to 173.1006.

5. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education, the department of higher education, the coordinating board for higher education, the state tax commission, **the department of economic development,** all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.

6. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

168.700. CITATION OF LAW — DEFINITIONS — REPAYMENT OF LOANS, CONTRACTS FOR — COORDINATOR POSITION TO BE MAINTAINED — RULEMAKING AUTHORITY — FUND CREATED, USE OF MONEYS. — 1. This act shall be known, and may be cited, as the "Missouri Teaching Fellows Program".

2. As used in this section, the following terms shall mean:

(1) "Department", the Missouri department of higher education;

(2) "Eligible applicant": a high school senior who:

(a) Is a United States citizen;

(b) Has a cumulative grade point average ranking in the top ten percentile in their graduating class and scores in the top twenty percentile on either the ACT or SAT assessment; or has a cumulative grade point average ranking in the top twenty percentile in their graduating class and scores in the top ten percentile of the ACT or SAT assessment;

(c) Upon graduation from high school, attends a Missouri higher education institution and attains a teaching certificate and either a bachelors or graduate degree with a cumulative grade point average of at least 3.0 on a 4 point scale or equivalent;

(d) Signs an agreement with the department in which the applicant agrees to engage in qualified employment upon graduation from a higher education institution for five years; and

(e) Upon graduation from the higher education institution, engages in qualified employment;

(3) "Qualified employment", employment as a teacher in a school located in a school district that is not classified as accredited by the state board of education at the time the eligible applicant signs their first contract to teach in such district. Preference in choosing schools to receive participating teachers shall be given to schools in such school districts with a higher than the state average of students eligible to receive a reduced lunch price under the National School Act, 42 U.S.C. Section 1751 et seq., as amended;

(4) "Teacher", any employee of a school district, regularly required to be certified under laws relating to the certification of teachers, except superintendents and assistant superintendents but including certified teachers who teach at the prekindergarten level within a prekindergarten program in which no fees are charged to parents or guardians.

3. Within the limits of amounts appropriated therefor, the department shall, upon proper verification to the department by an eligible applicant and the school district in which the applicant is engaged in qualified employment, enter into a one-year contract with eligible applicants to repay the interest and principal on the educational loans of the applicants or provide a stipend to the applicant as provided in subsection 4 of this section. The department may enter into subsequent one-year contracts with eligible applicants, not to total more than five such contracts. The fifth one-year contract shall provide for a stipend to such applicants as provided in subsection 4 of this section. If the school district becomes accredited at any time during which the eligible applicant is teaching at a school under a contract entered into pursuant to this section, nothing in this section shall preclude the department and the eligible applicant from entering into subsequent contracts to teach within the school district. An eligible applicant who does not enter into a contract with the department under the provisions of this subsection shall not be eligible for repayment of educational loans or a stipend under the provisions of subsection 4 of this section.

4. At the conclusion of each of the first four academic years that an eligible applicant engages in qualified employment, up to one-fourth of the eligible applicant's educational loans, not to exceed five thousand dollars per year, shall be repaid under terms provided in the contract. For applicants without any educational loans, the applicant may receive

a stipend of up to five thousand dollars at the conclusion of each of the first four academic years that the eligible applicant engages in qualified employment. At the conclusion of the fifth academic year that an eligible applicant engages in qualified employment, a stipend in an amount equal to one thousand dollars shall be granted to the eligible applicant. The maximum of five thousand dollars per year and the stipend of one thousand dollars shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. The amount of any repayment of educational loans or the issuance of a stipend under this subsection shall not exceed the actual cost of tuition, required fees, and room and board for the eligible applicant at the institution of higher education from which the eligible applicant graduated.

5. The department shall maintain a "Missouri Teaching Fellows Program" coordinator position, the main responsibility of which shall be the identification, recruitment, and selection of potential students meeting the requirements of paragraph (b) of subdivision (2) of subsection 2 of this section. In selecting potential students, the coordinator shall give preference to applicants that represent a variety of racial backgrounds in order to ensure a diverse group of eligible applicants.

6. The department shall promulgate rules to enforce the provisions of this section, including, but not be limited to: applicant eligibility, selection criteria, and the content of loan repayment contracts. If the number of applicants exceeds the revenues available for loan repayment or stipends, priority shall be to those applicants with the highest high school grade point average and highest scores on the ACT or SAT assessments.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. There is hereby created in the state treasury the "Missouri Teaching Fellows Program Fund". The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Private donations, federal grants, and other funds provided for the implementation of this section shall be placed in the Missouri teaching fellows program fund. Upon appropriation, money in the fund shall be used solely for the repayment of loans and the payment of stipends under the provisions of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

9. Subject to appropriations, the general assembly shall include an amount necessary to properly fund this section, not to exceed one million dollars in any fiscal year. The maximum of one million dollars in any fiscal year shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency.

168.702. SUNSET PROVISION — Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) Any new program authorized under section 168.700 shall automatically sunset six years after the effective date of this act unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under section 168.700 shall automatically sunset twelve years after the effective date of the reauthorization of this act; and

(3) Section 168.700 shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under section 168.700 is sunset.

172.950. CONFIDENTIALITY OF DONOR RECORDS. — Notwithstanding any provision of law, the curators of the University of Missouri may close the following records as they relate to a donor or potential donor:

(1) Any credit report, banking information, or personal financial documents, including legal documents that are part of an estate plan that is provided to the institution by the donor or potential donor;

(2) Any tax return or other personal financial information that federal or Missouri taxing authorities are allowed or required to treat as confidential under the federal Internal Revenue Code, Missouri income tax statutes, or their respective implementing regulations.

173.005. DEPARTMENT OF HIGHER EDUCATION CREATED — AGENCIES, DIVISIONS, TRANSFERRED TO DEPARTMENT — COORDINATING BOARD, APPOINTMENT QUALIFICATIONS, TERMS, COMPENSATION, DUTIES, ADVISORY COMMITTEE, MEMBERS. — 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri. The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent employees regardless of the source of funding. In addition to all other powers, duties and functions transferred to it, the coordinating board for higher education shall have the following duties and responsibilities:

(1) The coordinating board for higher education shall have approval of proposed new degree programs to be offered by the state institutions of higher education;

(2) The coordinating board for higher education may promote and encourage the development of cooperative agreements between Missouri public four-year institutions of higher education which do not offer graduate degrees and Missouri public four-year institutions of higher education which do offer graduate degrees for the purpose of offering graduate degree programs on campuses of those public four-year institutions of higher education which do not otherwise offer graduate degrees. Such agreements shall identify the obligations and duties of the parties, including assignment of administrative responsibility. Any diploma awarded for

graduate degrees under such a cooperative agreement shall include the names of both institutions inscribed thereon. Any cooperative agreement in place as of August 28, 2003, shall require no further approval from the coordinating board for higher education. Any costs incurred with respect to the administrative provisions of this subdivision may be paid from state funds allocated to the institution assigned the administrative authority for the program. The provisions of this subdivision shall not be construed to invalidate the provisions of subdivision (1) of this subsection;

(3) In consultation with the heads of the institutions of higher education affected and against a background of carefully collected data on enrollment, physical facilities, manpower needs, institutional missions, the coordinating board for higher education shall establish guidelines for appropriation requests by those institutions of higher education; however, other provisions of the Reorganization Act of 1974 notwithstanding, all funds shall be appropriated by the general assembly to the governing board of each public four-year institution of higher education which shall prepare expenditure budgets for the institution;

(4) No new state-supported senior colleges or residence centers shall be established except as provided by law and with approval of the coordinating board for higher education;

(5) The coordinating board for higher education shall establish admission guidelines consistent with institutional missions;

(6) The coordinating board shall establish policies and procedures for institutional decisions relating to the residence status of students;

(7) The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state **and shall ensure that as of the 2008-2009 academic year, in order to receive increases in state appropriations, all approved public two- and four-year public institutions shall work with the commissioner of higher education to establish agreed-upon competencies for all entry-level collegiate courses in English, mathematics, foreign language, sciences, and social sciences associated with an institution's general education core and that the coordinating board shall establish policies and procedures to ensure such courses are accepted in transfer among public institutions and treated as equivalent to similar courses at the receiving institutions. The department of elementary and secondary education shall align such competencies with the assessments found in section 160.518, RSMo, and successor assessments**;

(8) The coordinating board shall collect the necessary information and develop comparable data for all institutions of higher education in the state. The coordinating board shall use this information to delineate the areas of competence of each of these institutions and for any other purposes deemed appropriate by the coordinating board;

(9) Compliance with requests from the coordinating board for institutional information and the other powers, duties and responsibilities, herein assigned to the coordinating board, shall be a prerequisite to the receipt of any funds **[**for**]** which the coordinating board is responsible for administering; **[**and**]**

(10) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an "approved institution" within the meaning of section **[**173.205, but**] 173.1102. If any such public institution willfully disregards board policy, the commissioner of higher education may order such institution to remit a fine in an amount not to exceed one percent of the institution's current fiscal year state operating appropriation to the board. The board shall hold such funds until such time that the institution, as determined by the commissioner of higher education, corrects the violation, at which time the board shall**

refund such amount to the institution. If the commissioner determines that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund, unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter. However, nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly**[.]; and**

(11) (a) As used in this subdivision, the term "out-of-state public institution of higher education" shall mean an education institution located outside of Missouri that:

a. Is controlled or administered directly by a public agency or political subdivision or is classified as a public institution by the state;

b. Receives appropriations for operating expenses directly or indirectly from a state other than Missouri;

c. Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

d. Meets the standards for accreditation by an accrediting body recognized by the United States Department of Education or any successor agency; and

e. Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source.

(b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

a. The board's approval process of proposed new degree programs and course offerings by any out-of-state public institution of higher education seeking to offer degree programs or course work within the state of Missouri; and

b. The board's approval process of degree programs and courses offered by any out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by the board to operate a school in compliance with the provisions of sections 173.600 to 173.618.

The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri public higher education institutions. Such out-of-state public institutions shall be held to standards no lower than the standards established by the coordinating board for program approval and the policy guidelines of the coordinating board for data collection, cooperation, and resolution of disputes between Missouri institutions of higher education under this section. Any such out-of-state public institutions of higher education wishing to continue operating within this state must be approved by the board under the rules promulgated under this subdivision. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted so that students attending an out-of-state public institution are considered to be attending a Missouri public institution of higher education for purposes of obtaining student financial assistance.

3. The coordinating board shall meet at least four times annually with an advisory committee who shall be notified in advance of such meetings. The coordinating board shall have

exclusive voting privileges. The advisory committee shall consist of thirty-two members, who shall be the president or other chief administrative officer of the University of Missouri; the chancellor of each campus of the University of Missouri; the president of each state-supported four-year college or university, including Harris-Stowe State University, Missouri Southern State University, Missouri Western State University, and Lincoln University; the president of Linn State Technical College; the president or chancellor of each public community college district; and representatives of each of five accredited private institutions selected biennially, under the supervision of the coordinating board, by the presidents of all of the state's privately supported institutions; but always to include at least one representative from one privately supported junior college, one privately supported four-year college, and one privately supported university. The conferences shall enable the committee to advise the coordinating board of the views of the institutions on matters within the purview of the coordinating board.

4. The University of Missouri, Lincoln University, and all other state-governed colleges and universities, chapters 172, 174 and 175, RSMo, and others, are transferred by type III transfers to the department of higher education subject to the provisions of subsection 2 of this section.

5. The state historical society, chapter 183, RSMo, is transferred by type III transfer to the University of Missouri.

6. The state anatomical board, chapter 194, RSMo, is transferred by type II transfer to the department of higher education.

7. All the powers, duties and functions vested in the division of public schools and state board of education relating to community college state aid and the supervision, formation of districts and all matters otherwise related to the state's relations with community college districts and matters pertaining to community colleges in public school districts, chapters 163 and 178, RSMo, and others, are transferred to the coordinating board for higher education by type I transfer. Provided, however, that all responsibility for administering the federal-state programs of vocational-technical education, except for the 1202a post-secondary educational amendments of 1972 program, shall remain with the department of elementary and secondary education. The department of elementary and secondary education and the coordinating board for higher education shall cooperate in developing the various plans for vocational-technical education; however, the ultimate responsibility will remain with the state board of education.

8. The administration of sections 163.171 and 163.181, RSMo, relating to teacher-training schools in cities, is transferred by type I transfer to the coordinating board for higher education.

9. All the powers, duties, functions, personnel and property of the state library and state library commission, chapter 181, RSMo, and others, are transferred by type I transfer to the coordinating board for higher education, and the state library commission is abolished. The coordinating board shall appoint a state librarian who shall administer the affairs of the state library under the supervision of the board.

10. All the powers, duties, functions, and properties of the state poultry experiment station, chapter 262, RSMo, are transferred by type I transfer to the University of Missouri, and the state poultry association and state poultry board are abolished. In the event the University of Missouri shall cease to use the real estate of the poultry experiment station for the purposes of research or shall declare the same surplus, all real estate shall revert to the governor of the state of Missouri and shall not be disposed of without legislative approval.

173.093. LIMITATIONS ON AWARDS OF FINANCIAL ASSISTANCE. — Actual awards of student assistance for students enrolled in approved public or private institutions of higher education in this state, as defined in section 173.1102, shall be reduced to ensure that no student receiving state need-based financial assistance shall receive financial assistance that exceeds the student's cost of attendance. Approved institutions shall comply with the provisions of this section and shall, upon request by the department of higher education, provide financial information to the department to determine compliance with the requirements of this section. An approved institution that has accepted state need-based

financial assistance in excess of the cost of attendance as described in this section shall refund the excess to the coordinating board for higher education. For purposes of this section, "financial assistance" shall not include any student loans or any awards of financial assistance based solely on a student's academic performance.

173.125. DISPUTE RESOLUTION REQUIREMENTS. — As a condition of receiving state funds, every public institution of higher education shall agree to submit to binding dispute resolution with regard to disputes among public institutions of higher education that involve jurisdictional boundaries or the use or expenditure of any state resources whatsoever, as determined by the coordinating board. In all cases, the arbitrator shall be the commissioner of higher education or his or her designee, whose decision shall be binding on all parties. Any institution aggrieved by a decision of the commissioner may appeal such decision, in which instance the case shall be reviewed by the full coordinating board, at which time the full coordinating board shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter.

173.250. HIGHER EDUCATION ACADEMIC SCHOLARSHIP PROGRAM, BOARD TO ADMINISTER — REQUIREMENTS, AMOUNTS — TRANSFER, WITHDRAWAL, ILLNESS OR DISABILITY OF STUDENT. — 1. There is hereby established a "Higher Education Academic Scholarship Program" and any moneys appropriated by the general assembly for this program shall be used to provide scholarships for Missouri citizens to attend a Missouri college or university of their choice pursuant to the provisions of this section.

2. The definitions of terms set forth in section 173.205 shall be applicable to such terms as used in this section. The term "academic scholarship" means an amount of money paid by the state of Missouri to a qualified college or university student who has demonstrated superior academic achievement pursuant to the provisions of this section.

3. The coordinating board for higher education shall be the administrative agency for the implementation of the program established by this section, and shall:

(1) Promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of this section, including regulations for granting scholarship deferments;

(2) Prescribe the form and the time and method of awarding academic scholarships, and shall supervise the processing thereof; and

(3) Select qualified recipients to receive academic scholarships, make such awards of academic scholarships to qualified recipients and determine the manner and method of payment to the recipient.

4. A student shall be eligible for initial or renewed academic scholarship if he or she is in compliance with the eligibility requirements set forth in section 173.215 excluding the requirement of financial need and undergraduate status, and in addition meets the following requirements:

(1) Initial academic scholarships shall be offered in the academic year immediately following graduation from high school to Missouri high school seniors whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top **[**three**]** **five** percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school. In the freshman year of college, scholarship recipients are required to maintain status as a full-time student;

(2) Academic scholarships are renewable if the recipient remains in compliance with the applicable provisions of section 173.215 and the recipient makes satisfactory academic degree progress as a full-time student.

5. A student who is enrolled or has been accepted for enrollment as a postsecondary student at an approved private or public institution beginning with the fall, 1987, term and who meets the other eligibility requirements for an academic scholarship shall, within the limits of the funds

appropriated and made available, be offered an academic scholarship in the amount of two thousand dollars **for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school,** for the first academic year of study, which scholarship shall be renewable in the amount of two thousand dollars **for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are in the top three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school for each fiscal year prior to fiscal year 2011, and, subject to appropriations, three thousand dollars for fiscal year 2011 and every fiscal year thereafter, and one thousand dollars for fiscal year 2011 and every fiscal year thereafter for each eligible student whose composite scores on the American College Testing Program (ACT) or the Scholastic Aptitude Test (SAT) of the College Board are between the top five and three percent of all Missouri students taking those tests during the school year in which the scholarship recipients graduate from high school,** annually for the second, third and fourth academic years or as long as the recipient is in compliance with the applicable eligibility requirements set forth in section 173.215, provided those years of study are continuous and the student continues to meet eligibility requirements for the scholarship; provided, however, if a recipient ceases all attendance at an approved public or private institution for the purpose of providing service to a nonprofit organization, a state or federal government agency or any branch of the armed forces of the United States, the recipient shall be eligible for a renewal scholarship upon return to any approved public or private institution, provided the recipient:

(1) Returns to full-time status within twenty-seven months;

(2) Provides verification in compliance with coordinating board for higher education rules that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses or that the service to the state or federal governmental agency or branch of the armed forces of the United States was satisfactorily completed; and

(3) Meets all other requirements established for eligibility to receive a renewal scholarship.

6. A recipient of academic scholarship awarded under this section may transfer from one approved Missouri public or private institution to another without losing eligibility for the scholarship. If a recipient of the scholarship at any time withdraws from an approved private or public institution so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees or other charges, the institution shall pay the portion of the refund attributable to the scholarship for that term to the coordinating board for higher education.

7. Other provisions of this section to the contrary notwithstanding, if a recipient has been awarded an initial academic scholarship pursuant to the provisions of this section but is unable to use the scholarship during the first academic year because of illness, disability, pregnancy or other medical need or if a recipient ceases all attendance at an approved public or private institution because of illness, disability, pregnancy or other medical need, the recipient shall be eligible for an initial or renewal scholarship upon enrollment in or return to any approved public or private institution, provided the recipient:

(1) Enrolls in or returns to full-time status within twenty-seven months;

(2) Provides verification in compliance with coordinating board for higher education rules of sufficient medical evidence documenting an illness, disability, pregnancy or other medical

need of such person to require that that person will not be able to use the initial or renewal scholarship during the time period for which it was originally offered; and

(3) Meets all other requirements established for eligibility to receive an initial or a renewal scholarship.

173.355. DEFINITIONS. — As used in sections 173.350 to 173.450, the following terms mean:

(1) **"Asset of the authority", any asset or investment of any kind owned by the authority, including, but not limited to, any student loan, any income or revenues derived from any asset or investment owned by the authority, any funds, income, fees, revenues, proceeds of all bonds or other forms of indebtedness, and proceeds of the sale or liquidation of any such asset or investment;**

(2) "Authority", the Missouri higher education loan authority;

[(2)**] (3)** "Board", the Missouri coordinating board for higher education;

[(3)**] (4)** "Bond resolution", any indenture, resolution or other financing document pursuant to which revenue bonds, notes or other forms of indebtedness of the authority are issued or secured;

[(4)**] (5)** "Commissioner", the Missouri commissioner of higher education;

[(5)**] (6)** "Department", the Missouri department of higher education;

(7) "Public colleges and universities", any public community college, public college, or public university located in the state of Missouri;

[(6)**] (8)** "Secondary education loans", loans or notes originated by banks, other financial institutions, secondary education institutions or the authority, the proceeds of which are to be used to pay tuition for students enrolling for either junior or senior year at a secondary school which is accredited in accordance with applicable state law. Such loans shall be available only to the parents or guardians of those students who undertake courses of instruction for which postsecondary school course credit may be awarded. Loan proceeds will not be available for any secondary school instruction which is sectarian in nature.

173.360. HIGHER EDUCATION LOAN AUTHORITY, CREATED — MEMBERS, SELECTION PROCEDURE, QUALIFICATIONS — TERMS — VACANCY — REMOVAL PROCEDURE. — In order to assure that all eligible postsecondary education students have access to student loans that are guaranteed or insured, or both, **and in order to support the efforts of public colleges and universities to create and fund capital projects, and in order to support the Missouri technology corporation's ability to work with colleges and universities in identifying opportunities for commercializing technologies, transferring technologies, and to develop, recruit, and retain entities engaged in innovative technologies,** there is hereby created a body politic and corporate to be known as the "Higher Education Loan Authority of the State of Missouri". The authority is hereby constituted a public instrumentality and body corporate, and the exercise by the authority of the powers conferred by sections 173.350 to 173.450 shall be deemed to be the performance of an essential public function. The authority shall consist of seven members, five of whom shall be appointed by the governor by and with the advice and consent of the senate, each of whom shall be a resident of the state; and a member of the coordinating board; and the commissioner of higher education. In making appointments to the authority, the governor shall take into consideration nominees recommended to him for appointment by the chairman of the coordinating board. Two of the appointed members shall be representatives of higher education institutions, one public and one private, in Missouri, two of the appointed members shall be representatives of lending institutions in Missouri, and one of the appointed members shall be representative of the public. The members of the authority first appointed by the governor shall be appointed to serve for terms of one, two, three, four and five years, respectively, from the date of appointment, or until their successors shall have been appointed and shall have qualified. The initial term of each member is to be designated by the

governor at the time of making the appointment. Upon the expiration of the initial terms of office, successor members shall be appointed for terms of five years and shall serve until their successors shall have been appointed and shall have qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy in the authority for the members he appoints for the remainder of the unexpired term. Any member of the authority may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing unless the notice or hearing shall be expressly waived in writing.

173.385. AUTHORITY, POWERS AND DUTIES — DISTRIBUTION TO LEWIS AND CLARK DISCOVERY FUND, AMOUNT — IMMUNITY FROM LIABILITY, WHEN. — 1. The authority shall have the following powers, together with all powers incidental thereto or necessary for the performance thereof:

(1) To have perpetual succession as a body politic and corporate;

(2) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(4) To have and to use a corporate seal and to alter the same at pleasure;

(5) To maintain an office at such place or places in the state of Missouri as it may designate;

(6) To issue bonds or other forms of indebtedness to obtain funds to purchase student loan notes or finance student loans, or both, including those which are guaranteed under the provisions of sections 173.095 to 173.187, or under the provisions of the federal Higher Education Act of 1965, as amended, or secondary education loans, or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283, RSMo. Such bonds or other forms of indebtedness shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes or financing of student loans, or both, and investment income or shall be payable from and secured as may be designated in a bond resolution authorized by the authority. Such bonds or other forms of indebtedness shall not constitute a debt or liability of the state of Missouri or of any political subdivision thereof;

(7) To cause proceeds of any bond or any other form of indebtedness to be used to purchase student loan notes or finance student loans, or both, including those which are guaranteed under section 173.110, or guaranteed under the federal Higher Education Act of 1965, as amended, or secondary education loans, or scholarships which have been converted to loans under the Missouri teacher education scholarship program provided for in sections 160.276 to 160.283, RSMo;

(8) To sell or enter into agreements to sell student loan notes acquired pursuant to subdivision (7) of this section, and any agreement to sell student loan notes guaranteed under section 173.110 shall be subject to prior approval of the department. Such agreements to sell student loan notes shall be limited only by the terms of the bond resolution authorizing the issue of the bonds or other forms of indebtedness, but shall not be limited by any other provision of law limiting the sale of such student loan notes;

(9) **To transfer assets of the authority to the Lewis and Clark discovery fund established in section 173.392;**

(10) To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its purpose;

[(10)**]** **(11)** To make and execute contracts, releases, compromises, and other instruments necessary or convenient for the exercise of its powers, or to carry out its purpose;

[(11)**]** **(12)** To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in connection with providing technical, consultative and project assistant services. Such fees and charges shall be used to pay the costs of the authority;

[(12)**]** **(13)** To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States government or any instrumentality thereof, the principal and interest of which are guaranteed by the state of Missouri, or the United States government or any instrumentality thereof, or certificates of deposit or time deposits of federally insured banks, or federally insured savings and loan associations or of insured credit unions, or, with respect to moneys pledged or held under a trust estate or otherwise available for the owners of bonds or other forms of indebtedness, any investment authorized under the bond resolution governing the security and payment of such obligations or repurchase agreements for the specified investments;

[(13)**]** **(14)** To acquire, hold and dispose of personal property **[**for**]** **to carry out** its purposes;

[(14)**]** **(15)** To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

[(15)**]** **(16)** To take any necessary actions to be qualified to issue tax-exempt bonds or other forms of tax-exempt indebtedness pursuant to the applicable provisions of the Internal Revenue Code of 1986, as amended**, including the issuance of such bonds to fulfill the obligations of the authority under subsection 2 of section 173.385**;

[(16)**]** **(17)** To take any necessary actions to be qualified to issue bonds or other forms of indebtedness, the interest on which is not exempt from federal income taxation**, including the issuance of such bonds to fulfill the obligations of the authority under subsection 2 of section 173.385**;

[(17)**]** **(18)** To service student loans for any owner thereof, regardless of whether such student loans are originated in this state or out of this state**;**

(19) To create, acquire, contribute to, or invest in any type of financial aid program that provides grants and scholarships to students.

2. The authority shall distribute three hundred fifty million dollars of assets of the authority to the Lewis and Clark discovery fund established in section 173.392 as follows: two hundred thirty million dollars no later than September 15, 2007; five million dollars by December 31, 2007; and five million dollars each quarter thereafter ending September 30, 2013. Any investment earnings on the moneys in the Lewis and Clark discovery fund shall be credited against the next distribution by the authority and shall thereby reduce the amount of any such distribution by the authority. The authority shall make any distributions to the Lewis and Clark discovery fund pursuant to the dates scheduled in this subsection, provided, however, that the date of any such distribution may be delayed by the authority if the authority determines that any such distribution may materially adversely effect the services and benefits provided Missouri students or residents in the ordinary course of the authority's business, the borrower benefit programs of the authority, or the economic viability of the authority. Notwithstanding the ability of the authority to delay any distribution required by this subsection, the distribution of the entire three hundred fifty million dollars of assets by the authority to the Lewis and Clark discovery fund shall be completed no later than September 30, 2013, unless otherwise approved by the authority and the commissioner of the office of administration.

3. No member of the authority who lawfully acts or votes on any agreement or other matter authorized under the powers granted to the authority under this section shall incur any personal liability as a result of such lawful deliberations, acts, or votes, and such members shall be immune from suit for such deliberations, acts, or votes. In no event shall such deliberations, acts, or votes constitute a conflict of interest under section 173.380.

4. Notwithstanding any provision of law to the contrary, in the event of the initial distribution of two hundred thirty million dollars of assets by the authority to the Lewis and Clark discovery fund created in section 173.392, the director of the department of economic development shall allocate to and reserve for the authority during the year of such first distribution and in at least each of the next fourteen years thereafter a

percentage of the state ceiling under sections 108.500 to 108.532, RSMo, which percentage shall at a minimum be equal to one and one-half percent less than the average percentage of the authority's allocation of state ceiling for the two calendar years 2005 and 2006 calculated annually. The dollar amount of state ceiling to be received by the authority as determined under the provisions of this subsection for calendar year 2014 and later years, not to exceed calendar year 2021, shall be reduced in any calendar year by the percentage of the three hundred fifty million dollars not yet distributed by the authority to the Lewis and Clark discovery fund by the preceding calendar year end.

173.386. ASSETS MAY BE USED FOR PAYMENT OF DEBT — Notwithstanding any other provision of law, the authority shall not have the power or authority to cause any asset of the authority to be used for the payment of debt incurred by the state, and the authority shall not have the power or authority to distribute any asset of the authority to any fund of the state of Missouri, for the purpose of payment of debt incurred by the state.

173.392. LEWIS AND CLARK DISCOVERY FUND CREATED, USE OF MONEYS — ANNUAL APPROPRIATIONS, PURPOSES. — 1. There is hereby created in the state treasury a fund to be known as the "Lewis and Clark Discovery Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be distributed to it by the authority, appropriated to it by the general assembly, and any gifts, contributions, grants, or bequests received from federal, private, or other sources for deposit into the fund. The office of administration shall administer the fund. The moneys in the fund shall only be used for any purpose enumerated in subsection 2 of this section. The moneys in the fund may be appropriated by the general assembly, but only for any purpose enumerated in subsection 2 of this section. None of the moneys in the fund shall be considered state funds unless and to the extent such moneys are appropriated by the general assembly.

2. The general assembly may annually appropriate moneys from the Lewis and Clark discovery fund only for the following purposes:

(1) To support funding of capital projects at public colleges and universities, provided that moneys shall not be appropriated to any public college or university that knowingly employs, as of September 1, 2007, any person, as a professor or instructor, required to be registered under sections 589.400 to 589.425, RSMo; and

(2) To support funding for the Missouri technology corporation's ability to work with colleges and universities in identifying opportunities for commercializing technologies, transferring technologies, and to develop, recruit, and retain entities engaged in innovative technologies.

3. Moneys in the fund shall be invested by the state treasurer in the manner prescribed by law for investment of general revenue funds and any interest earned on invested moneys shall accrue to the benefit of the Lewis and Clark discovery fund and shall reduce payments by the authority pursuant to subsection 2 of section 173.385. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri Lewis and Clark discovery fund shall not revert to the credit of the general revenue fund at the end of the biennium.

173.393. MISUSE OF MONEYS BY RECIPIENT BECOMES LIABILITY, REPAYMENT OF MONEYS. — Any money appropriated by the general assembly from the Lewis and Clark discovery fund and used by the recipient in violation of section 173.386 or section 173.392, shall thereby be a liability of the recipient to the credit of the Lewis and Clark discovery fund and the recipient shall remit all such money to the Lewis and Clark discovery fund. In the event the recipient of such appropriated funds is liable to remit the appropriated funds back to the Lewis and Clark discovery fund, pursuant to this section, such recipient shall also be liable to remit interest on the amount due to the fund. Beginning on

the date of receipt of such appropriated funds by the recipient, such outstanding funds shall accrue interest at the rate of one percent per month until the principal and all accrued interest is remitted in full to the fund. The recipient shall remit all principal of and interest on such misused funds to the state treasurer for deposit into the Lewis and Clark discovery fund.

173.425. ASSETS NOT PART OF REVENUE — EXCLUSIVE CONTROL OF AUTHORITY — STUDENT LOAN NOTES NOT PUBLIC PROPERTY. — **[**The proceeds of all bonds or other forms of indebtedness issued by the authority and of all fees permitted to be charged by the authority and of other revenues derived shall not**] No asset of the authority shall** be considered to be part of the revenue of the state within the meaning of article III, section 36, of the Constitution of Missouri, **[**shall not**] and no asset of the authority shall** be required to be deposited into the state treasury, and **[**shall not**] no asset of the authority shall** be subject to appropriation by the general assembly**, except for those amounts distributed by the authority to the Lewis and Clark discovery fund pursuant to subdivision (9) of subsection 1 of section 173.385**. The **[**proceeds, fees, and revenue**] assets of the authority** shall remain under the exclusive control and management of the authority to be used as required pursuant to sections 173.350 to 173.450**, except for those amounts distributed by the authority to the Lewis and Clark discovery fund pursuant to subdivision (9) of subsection 1 of section 173.385**. Student loan notes purchased or financed shall not be considered to be public property.

173.475. NO DISCRIMINATION IN HIRING BASED ON LACK OF A GRADUATE DEGREE, WHEN. — **Notwithstanding any provision of law or policy of a public institution of higher education to the contrary, no public college or university, as defined in section 173.355, shall reject an applicant for a faculty position based solely on the applicant having not earned a graduate degree, provided that the applicant has earned an undergraduate baccalaureate degree and has served for at least eight years in the general assembly.**

173.616. SCHOOLS AND COURSES THAT ARE EXEMPT FROM SECTIONS 173.600 TO 173.618. — 1. The following schools, training programs, and courses of instruction shall be exempt from the provisions of sections 173.600 to 173.618:

(1) A public institution;

(2) Any college or university represented directly or indirectly on the advisory committee of the coordinating board for higher education as provided in subsection 3 of section 173.005;

(3) An institution that is certified by the board as an "approved private institution" under subdivision (2) of section 173.205;

(4) A not-for-profit religious school that is accredited by the American Association of Bible Colleges, the Association of Theological Schools in the United States and Canada, or a regional accrediting association, such as the North Central Association, which is recognized by the Council on Postsecondary Accreditation and the United States Department of Education**; and**

(5) Beginning July 1, 2008, all out-of-state public institutions of higher education, as such term is defined in subdivision (11) of subsection 2 of section 173.005.

2. The coordinating board shall exempt the following schools, training programs and courses of instruction from the provisions of sections 173.600 to 173.618:

(1) A not-for-profit school owned, controlled and operated by a bona fide religious or denominational organization which offers no programs or degrees and grants no degrees or certificates other than those specifically designated as theological, bible, divinity or other religious designation;

(2) A not-for-profit school owned, controlled and operated by a bona fide eleemosynary organization which provides instruction with no financial charge to its students and at which no part of the instructional cost is defrayed by or through programs of governmental student financial aid, including grants and loans, provided directly to or for individual students;

(3) A school which offers instruction only in subject areas which are primarily for avocational or recreational purposes as distinct from courses to teach employable, marketable knowledge or skills, which does not advertise occupational objectives and which does not grant degrees;

(4) A course of instruction, study or training program sponsored by an employer for the training and preparation of its own employees;

(5) A course of study or instruction conducted by a trade, business or professional organization with a closed membership where participation in the course is limited to bona fide members of the trade, business or professional organization, or a course of instruction for persons in preparation for an examination given by a state board or commission where the state board or commission approves that course and school;

(6) A school or person whose clientele are primarily students aged sixteen or under.

3. A school which is otherwise licensed and approved under and pursuant to any other licensing law of this state shall be exempt from sections 173.600 to 173.618, but a state certificate of incorporation shall not constitute licensing for the purpose of sections 173.600 to 173.618.

4. Any school, training program or course of instruction exempted herein may elect by majority action of its governing body or by action of its director to apply for approval of the school, training program or course of instruction under the provisions of sections 173.600 to 173.618. Upon application to and approval by the coordinating board, such school training program or course of instruction may become exempt from the provisions of sections 173.600 to 173.618 at any subsequent time, except the board shall not approve an application for exemption if the approved school is then in any status of noncompliance with certification standards and a reversion to exempt status shall not relieve the school of any liability for indemnification or any penalty for noncompliance with certification standards during the period of the school's approved status.

173.1000. CITATION OF LAW. — The provisions of sections 173.1000 to 173.1006 shall be known and may be cited as the "Higher Education Student Funding Act".

173.1003. CHANGE IN TUITION RATE TO BE REPORTED TO BOARD — PERMISSIBLE PERCENTAGE CHANGE, EXCEPTIONS — DEFINITIONS. — 1. Beginning with the 2008-2009 academic year, each approved public institution, as such term is defined in section 173.1102, shall submit its percentage change in the amount of tuition from the current academic year compared to the upcoming academic year to the coordinating board for higher education by July first preceding such academic year.

2. For institutions whose tuition is greater than the average tuition, the percentage change in tuition shall not exceed the percentage change of the consumer price index or zero, whichever is greater.

3. For institutions whose tuition is less than the average tuition, the dollar increase in tuition shall not exceed the product of zero or the percentage change of the consumer price index, whichever is greater, times the average tuition.

4. If a tuition increase exceeds the limits set forth in subsections 2 or 3 of this section, then the institution shall be subject to the provisions of subsection 5 of this section.

5. Any institution that exceeds the limits set forth in subsections 2 or 3 of this section shall remit to the board an amount equal to five percent of its current year state operating appropriation amount which shall be deposited into the general revenue fund unless the institution appeals, within thirty days of such notice, to the commissioner of higher education for a waiver of this provision. The commissioner, after meeting with appropriate representatives of the institution, shall determine whether the institution's waiver request is sufficiently warranted, in which case no fund remission shall occur. In making this determination, the factors considered by the commissioner shall include but

not be limited to the relationship between state appropriations and the consumer price index and any extraordinary circumstances. If the commissioner determines that an institution's tuition percent increase is not sufficiently warranted and declines the waiver request, the commissioner shall recommend to the full coordinating board that the institution shall remit an amount up to five percent of its current year state operating appropriation to the board, which shall deposit the amount into the general revenue fund. The coordinating board shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter.

6. The provisions of subsections 2 to 5 of this section shall not apply to any community college unless any such community college's tuition for any Missouri resident is greater than or equal to the average tuition. If the provisions of subsections 2 to 5 of this section apply to a community college, subsections 2 to 5 of this section shall only apply to out-of-district Missouri resident tuition.

7. For purposes of this section, the term "average tuition" shall be the sum of the tuition amounts for the previous academic year for each approved public institution that is not excluded under subsection 6 of this section, divided by the number of such institutions. The term "consumer price index" shall mean the consumer price index for all urban consumers (CPI-U), 1982-1984 = 100, not seasonally adjusted, as defined and officially recorded by the United States Department of Labor, or its successor agency, from January first of the current year compared to January first of the preceding year. The term "state appropriation" shall mean the state operating appropriation for the prior year per full time equivalent student for the prior year compared to state operating appropriation for the current year per full time equivalent student for the prior year. The term "tuition" shall mean the amount of tuition and required fees, excluding any fee established by the student body of the institution, charged to a Missouri resident undergraduate enrolled in fifteen credit hours at the institution.

8. Nothing in this section shall be construed to usurp or preclude the ability of the governing board of an institution of higher education to establish tuition or required fee rates.

173.1004. RULEMAKING AUTHORITY. — The coordinating board shall promulgate rules and regulations to ensure that each approved public higher education institution shall post on its website the names of all faculty, including adjunct, part-time, and full-time faculty, who are given full or partial teaching assignments along with web links or other means of providing information about their academic credentials and, where feasible, instructor ratings by students. In addition, public institutions of higher education shall post course schedules on their websites that include the name of the instructor assigned to each course and, if applicable, each section of a course, as well as identifying those instructors who are teaching assistants, provided that the institution may modify and update the identity of instructors as courses and sections are added or cancelled.

173.1006. ESTABLISHMENT OF PERFORMANCE MEASURES. — 1. The following performance measures shall be established by July 1, 2008:

(1) Two institutional measures as negotiated by each public institution through the department of higher education; and

(2) Three statewide measures as developed by the department of higher education in consultation with public institutions of higher education.

One such measure may be a sector-specific measure making use of the 2005 additional Carnegie categories, if deemed appropriate by the department of higher education.

2. The department shall report to the joint committee on education established in section 160.254, RSMo, on its progress at least twice a year in developing the statewide measures and negotiating the institution-specific measures and shall develop a procedure

for reporting the effects of performance measures to the joint committee on education at an appropriate time for consideration during the appropriations process.

173.1101. CITATION OF LAW — REFERENCES TO PROGRAM. — The financial assistance program established under sections 173.1101 to 173.1107 shall be hereafter known as the "Access Missouri Financial Assistance Program". The coordinating board and all approved private and public institutions in this state shall refer to the financial assistance program established under sections 173.1101 to 173.1107 as the access Missouri student financial assistance program in their scholarship literature, provided that no institution shall be required to revise or amend any such literature to comply with this section prior to the date such literature would otherwise be revised, amended, reprinted or replaced in the ordinary course of such institution's business.

173.1102. DEFINITIONS. — As used in sections 173.1101 to 173.1107, unless the context requires otherwise, the following terms mean:

(1) "Academic year", the period from July first of any year through June thirtieth of the following year;

(2) "Approved private institution", a nonprofit institution, dedicated to educational purposes, located in Missouri which:

(a) Is operated privately under the control of an independent board and not directly controlled or administered by any public agency or political subdivision;

(b) Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a certificate or degree;

(c) Meets the standards for accreditation as determined by either the Higher Learning Commission or by other accrediting bodies recognized by the United States Department of Education or by utilizing accreditation standards applicable to nondegree-granting institutions as established by the coordinating board for higher education;

(d) Does not discriminate in the hiring of administrators, faculty and staff or in the admission of students on the basis of race, color, religion, sex, or national origin and is in compliance with the Federal Civil Rights Acts of 1964 and 1968 and executive orders issued pursuant thereto. Sex discrimination as used herein shall not apply to admission practices of institutions offering the enrollment limited to one sex;

(e) Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source;

(3) "Approved public institution", an educational institution located in Missouri which:

(a) Is directly controlled or administered by a public agency or political subdivision;

(b) Receives appropriations directly or indirectly from the general assembly for operating expenses;

(c) Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

(d) Meets the standards for accreditation as determined by either the Higher Learning Commission, or if a public community college created under the provisions of sections 178.370 to 178.400, RSMo, meets the standards established by the coordinating board for higher education for such public community colleges, or by other accrediting bodies recognized by the United States Department of Education or by utilizing accreditation standards applicable to the institution as established by the coordinating board for higher education;

(e) Does not discriminate in the hiring of administrators, faculty and staff or in the admission of students on the basis of race, color, religion, sex, or national origin and is otherwise in compliance with the Federal Civil Rights Acts of 1964 and 1968 and executive orders issued pursuant thereto;

(f) Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source;

(4) "Coordinating board", the coordinating board for higher education;

(5) "Expected family contribution", the amount of money a student and family should pay toward the cost of postsecondary education as calculated by the United States Department of Education and reported on the student aid report or the institutional student information record;

(6) "Financial assistance", an amount of money paid by the state of Missouri to a qualified applicant under sections 173.1101 to 173.1107;

(7) "Full-time student", an individual who is enrolled in and is carrying a sufficient number of credit hours or their equivalent at an approved private or public institution to secure the degree or certificate toward which he or she is working in no more than the number of semesters or their equivalent normally required by that institution in the program in which the individual is enrolled. This definition shall be construed as the successor to subdivision (7) of section 173.205 for purposes of eligibility requirements of other financial assistance programs that refer to section 173.205.

173.1103. BOARD TO ADMINISTER PROGRAM, DUTIES OF THE BOARD — FUND CREATED, USE OF MONEYS. — 1. The coordinating board shall be the administrative agency for the implementation of the program established by sections 173.1101 to 173.1107. The coordinating board shall promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of sections 173.1101 to 173.1107. It shall prescribe the form and the time and method of filing applications and supervise the processing thereof. The coordinating board shall determine the criteria for eligibility of applicants and shall evaluate each applicant's expected family contribution. It shall select qualified recipients to receive financial assistance, make such awards of financial assistance to qualified recipients, and determine the manner and method of payment to the recipient.

2. The coordinating board shall determine eligibility for renewed assistance on the basis of annual applications and annual evaluations of expected family contribution. In awarding renewal grants, the coordinating board may increase or decrease the amount of financial assistance to an applicant if such action is warranted by a change in the financial condition of the applicant, the applicant's spouse or parents, or the availability of funds for that year. As a condition to consideration for initial or renewed assistance, the coordinating board may require the applicant, the applicant's spouse and parents to execute forms of consent authorizing the director of revenue of Missouri to compare financial information submitted by the applicant with the Missouri individual income tax returns of the applicant, the applicant's spouse and parents for the taxable year immediately preceding the year for which application is made, and to report any discrepancies to the coordinating board.

3. There is hereby created in the state treasury the "Access Missouri Financial Assistance Fund". The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely to provide financial assistance to qualified applicants as provided by sections 173.1101 to 173.1107. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

173.1104. ELIGIBILITY CRITERIA FOR ASSISTANCE — DISQUALIFICATION, WHEN — ALLOCATION OF ASSISTANCE. — 1. An applicant shall be eligible for initial or renewed

financial assistance only if, at the time of application and throughout the period during which the applicant is receiving such assistance, the applicant:

(1) Is a citizen or a permanent resident of the United States;

(2) Is a resident of the state of Missouri, as determined by reference to standards promulgated by the coordinating board;

(3) Is enrolled, or has been accepted for enrollment, as a full-time undergraduate student in an approved private or public institution; and

(4) Is not enrolled or does not intend to use the award to enroll in a course of study leading to a degree in theology or divinity.

2. If an applicant is found guilty of or pleads guilty to any criminal offense during the period of time in which the applicant is receiving financial assistance, such applicant shall not be eligible for renewal of such assistance, provided such offense would disqualify the applicant from receiving federal student aid under Title IV of the Higher Education Act of 1965, as amended.

3. Financial assistance shall be allotted for one academic year, but a recipient shall be eligible for renewed assistance until he or she has obtained a baccalaureate degree, provided such financial assistance shall not exceed a total of ten semesters or fifteen quarters or their equivalent. Standards of eligibility for renewed assistance shall be the same as for an initial award of financial assistance, except that for renewal, an applicant shall demonstrate a grade-point average of two and five-tenths on a four-point scale, or the equivalent on another scale. This subsection shall be construed as the successor to section 173.215 for purposes of eligibility requirements of other financial assistance programs that refer to section 173.215.

173.1105. AWARD AMOUNTS, MINIMUMS AND MAXIMUMS — ADJUSTMENT IN AWARDS, WHEN. — 1. Beginning with the 2007-2008 academic year, an applicant who is an undergraduate postsecondary student at an approved private or public institution and who meets the other eligibility criteria shall be eligible for financial assistance, with a minimum and maximum award amount as follows:

(1) One thousand dollars maximum and three hundred dollars minimum for students attending institutions classified as part of the public two-year sector;

(2) Two thousand one hundred fifty dollars maximum and one thousand dollars minimum for students attending institutions classified as part of the public four-year sector, including Linn State Technical College; and

(3) Four thousand six hundred dollars maximum and two thousand dollars minimum for students attending approved private institutions.

2. All students with an expected family contribution of twelve thousand dollars or less shall receive at least the minimum award amount for his or her institution. Maximum award amounts for an eligible student with an expected family contribution above seven thousand dollars shall be reduced by ten percent of the maximum expected family contribution for his or her increment group. Any award amount shall be reduced by the amount of a student's reimbursement pursuant to section 160.545, RSMo. For purposes of this subsection, the term "increment group" shall mean a group organized by expected family contribution in five hundred dollar increments into which all eligible students shall be placed.

3. If appropriated funds are insufficient to fund the program as described, the maximum award shall be reduced across all sectors by the percentage of the shortfall. If appropriated funds exceed the amount necessary to fund the program, the additional funds shall be used to increase the number of recipients by raising the cutoff for the expected family contribution rather than by increasing the size of the award.

4. Every three years, beginning with academic year 2009-2010, the award amount may be adjusted to increase no more than the consumer price index for all urban consumers (CPI-U), 1982-1984 = 100, not seasonally adjusted, as defined and officially

recorded by the United States Department of Labor, or its successor agency, for the previous academic year. The coordinating board shall prepare a report prior to the legislative session for use of the general assembly and the governor in determining budget requests which shall include the amount of funds necessary to maintain full funding of the program based on the baseline established for the program upon the passage of sections 173.1101 to 173.1107. Any increase in the award amount shall not become effective unless an increase in the amount of money appropriated to the program necessary to cover the increase in award amount is passed by the general assembly.

173.1106. OTHER FINANCIAL ASSISTANCE TO BE REPORTED TO BOARD. — If an applicant is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the coordinating board by the institution and the recipient.

173.1107. TRANSFER OF RECIPIENT, EFFECT OF. — A recipient of financial assistance may transfer from one approved public or private institution to another without losing eligibility for assistance under sections 173.1101 to 173.1107, but the coordinating board shall make any necessary adjustments in the amount of the award. If a recipient of financial assistance at any time is entitled to a refund of any tuition, fees, or other charges under the rules and regulations of the institution in which he or she is enrolled, the institution shall pay the portion of the refund which may be attributed to the state grant to the coordinating board. The coordinating board will use these refunds to make additional awards under the provisions of sections 173.1101 to 173.1107.

173.1108. SUNSET PROVISION. — Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under sections 173.1101 to 173.1107 shall automatically sunset six years after the effective date of sections 173.1101 to 173.1107 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 173.1101 to 173.1107 shall automatically sunset twelve years after the effective date of the reauthorization of sections 173.1101 to 173.1107; and

(3) Sections 173.1101 to 173.1107 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 173.1101 to 173.1107 is sunset.

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — VETERANS' COMMISSION CAPITAL IMPROVEMENT TRUST FUND, CREATED, PURPOSE, FUNDING — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND — EARLY CHILDHOOD DEVELOPMENT EDUCATION AND CARE FUND, CREATED, PURPOSE, FUNDING, STUDY, RULES — GRANTS FOR VETERANS' SERVICE OFFICER PROGRAM. — 1. All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission

fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund;

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of seven hundred fifty thousand dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans' commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II and the Korean Conflict pursuant to sections 42.170 to 42.206, RSMo. Any funds remaining from the medals, medallions and certificates shall not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I.

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding

the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) The first four and one-half million dollar portion shall be transferred to the **[**Missouri college guarantee**]** **access Missouri financial assistance** fund, established pursuant to the provisions of sections **[**173.810 to 173.830**]** **173.1101 to 173.1107**, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(b) The second three million dollar portion shall be transferred to the veterans' commission capital improvement trust fund;

(c) The third three million dollar portion shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, and after the appropriations made pursuant to the provisions of paragraphs (a), (b), and (c) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants.

a. Grants or contracts may be provided for:

(i) Start-up funds for necessary materials, supplies, equipment and facilities; and

(ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;

b. Grant and contract applications shall, at a minimum, include:

(i) A funding plan which demonstrates funding from a variety of sources including parental fees;

(ii) A child development, education and care plan that is appropriate to meet the needs of children;

(iii) The identity of any partner agencies or contractual service providers;

(iv) Documentation of community input into program development;

(v) Demonstration of financial and programmatic accountability on an annual basis;

(vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and

commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and

(vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;

c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:

(i) Are new or expanding programs which increase capacity;

(ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;

(iii) Are programs designed for special needs children;

(iv) Are programs that offer services during nontraditional hours and weekends; or

(v) Are programs that serve a high concentration of low-income families;

d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-eight million dollars: one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the **[**Missouri college guarantee**]** **access Missouri financial assistance** fund, established pursuant to the provisions of **[**section 173.830**]** **sections 173.1101 to 173.1107**, RSMo; three million dollars of such proceeds shall be transferred annually, subject to appropriation, to the veterans' commission capital improvement trust fund; and one million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri national guard trust fund created in section 41.214, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

SECTION 1. CONVEYANCE OF PROPERTY LOCATED IN NODAWAY COUNTY. — 1. The board of regents of Northwest Missouri State University is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Nodaway County. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest Corner Section 21, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Section line South 88 degrees 59 minutes 56 seconds East 1498.03 feet; thence South 01 degrees 26 minutes 32 seconds West 70.76 feet to the southerly right-of-way of Highway 136 and the Point of Beginning; thence along said right-of-way South 83 degrees 01 minutes 33 seconds East 161.21 feet; thence continuing along said right-of-way South 88

degrees 58 minutes 33 seconds East 203.85 feet to the easterly right-of-way of the former Norfolk and Western Railroad right-of-way; thence along said right-of-way South 28 degrees 44 minutes 21 seconds East 257.08 feet; thence North 88 degrees 32 minutes 03 seconds West 493.95 feet; thence North 01 degrees 26 minutes 32 seconds East 235.23 feet to the point of beginning except that portion lying within the abandoned Railroad right of way, Nodaway County, Missouri.

2. Consideration for the conveyance shall be negotiated by the board of regents and the purchaser of the property.

3. The attorney general shall approve the form of the instrument of conveyance.

[173.200. PURPOSE OF SECTIONS 173.200 TO 172.230. — The general assembly, giving due consideration to the historical and continuing interest of the people of the state of Missouri in encouraging deserving and qualified youths to realize their aspirations for higher education, finds and declares that higher education for residents of this state who desire such an education and are properly qualified therefor is important to the welfare and security of this state and the nation, and consequently is an important public purpose. The general assembly finds and declares that the state can achieve its full economic and social potential only if every individual has the opportunity to contribute to the full extent of his capabilities and only when financial barriers to his economic, social and educational goals are removed. It is, therefore, the policy of the general assembly and the purpose of sections 173.200 to 173.230 to establish a financial assistance program to enable qualified full-time students to receive nonreligious educational services in a public or private institution of higher education of their choice.**]**

[173.203. CHARLES GALLAGHER STUDENT FINANCIAL ASSISTANCE PROGRAM — COORDINATING BOARD, DUTIES — UNIVERSITIES AND COLLEGES, DUTIES. — The financial assistance program established under sections 173.200 to 173.230 shall be hereafter known as the "Charles Gallagher Student Financial Assistance Program". The coordinating board and all approved private and public institutions in this state shall refer to the financial assistance program established under sections 173.200 to 173.230 as the Charles Gallagher student financial assistance program in their scholarship literature, provided that no institution shall be required to revise or amend any such literature to comply with this section prior to the date such literature would otherwise be revised, amended, reprinted or replaced in the ordinary course of such institution's business.**]**

[173.205. DEFINITIONS — As used in sections 173.200 to 173.230, unless the context requires otherwise, the following terms mean:

(1) "Academic year", the period from August first of any year through July thirty-first of the following year;

(2) "Approved private institution", a nonprofit institution, dedicated to educational purposes, located in Missouri which:

(a) Is operated privately under the control of an independent board and not directly controlled or administered by any public agency or political subdivision;

(b) Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a certificate or degree;

(c) Meets the standards for accreditation as determined by either the North Central Association of Colleges and Secondary Schools or by other accrediting bodies recognized by the United States Office of Education or by utilizing accreditation standards applicable to nondegree-granting institutions as established by the coordinating board for higher education;

(d) Does not discriminate in the hiring of administrators, faculty and staff or in the admission of students on the basis of race, color, religion, sex, or national origin and is in compliance with the Federal Civil Rights Acts of 1964 and 1968 and executive orders issued

pursuant thereto. Sex discrimination as used herein shall not apply to admission practices of institutions offering the enrollment limited to one sex;

(e) Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source;

(3) "Approved public institution", an educational institution located in Missouri which:

(a) Is directly controlled or administered by a public agency or political subdivision;

(b) Receives appropriations directly or indirectly from the general assembly for operating expenses;

(c) Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

(d) Meets the standards for accreditation as determined by either the North Central Association of Colleges and Secondary Schools, or if a public junior college created pursuant to the provisions of sections 178.370 to 178.400, RSMo, meets the standards established by the coordinating board for higher education for such public junior colleges, or by other accrediting bodies recognized by the United States Office of Education or by utilizing accreditation standards applicable to the institution as established by the coordinating board for higher education;

(e) Does not discriminate in the hiring of administrators, faculty and staff or in the admission of students on the basis of race, color, religion, sex, or national origin and is otherwise in compliance with the Federal Civil Rights Acts of 1964 and 1968 and executive orders issued pursuant thereto;

(f) Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source;

(4) "Coordinating board", the coordinating board for higher education;

(5) "Financial assistance", an amount of money paid by the state of Missouri to a qualified applicant pursuant to sections 173.200 to 173.230;

(6) "Financial need", the difference between the financial resources available to an applicant, as determined by the coordinating board, and the applicant's anticipated expenses, including tuition, mandatory fees, and board and room while attending an approved private or public institution of postsecondary education. In determining need the coordinating board shall employ a formula similar to nationally recognized comprehensive mechanisms for determining need, such as those of the American College Testing Program or the College Scholarship Service;

(7) "Full-time student", an individual who is enrolled in and is carrying sufficient number of credit hours or their equivalent at an approved private or public institution to secure the degree or certificate toward which he is working in no more than the number of semesters or their equivalent normally required by that institution in the program in which the individual is enrolled.**]**

[173.210. COORDINATING BOARD TO ADMINISTER. — The coordinating board shall be the administrative agency for the implementation of the program established by sections 173.200 to 173.235. The coordinating board shall promulgate reasonable rules and regulations for the exercise of its functions and the effectuation of the purposes of sections 173.200 to 173.235. It shall prescribe the form and the time and method of filing applications and supervise the processing thereof. The coordinating board shall determine the criteria for eligibility of applicants and shall evaluate each applicant's financial need. It shall select qualified recipients to receive financial assistance, make such awards of financial assistance to qualified recipients and determine the manner and method of payment to the recipient. The coordinating board shall determine eligibility for renewed assistance on the basis of annual applications and annual evaluations of financial needs, giving priority to renewal applicants over new applicants in dispensing available funds in a given year. In awarding renewal grants, the coordinating board may increase or decrease the amount of financial assistance to an applicant if such action is

warranted by a change in the financial condition of the applicant, his spouse or parents or the availability of funds for that year. As a condition to consideration for initial or renewed assistance, the coordinating board may require the applicant, his spouse and parents to execute forms of consent authorizing the director of revenue of Missouri to compare financial information submitted by the applicant with the Missouri individual income tax returns of the applicant, his spouse and parents for the taxable year immediately preceding the year for which application is made, and to report any discrepancies to the coordinating board.**]**

[173.215. QUALIFICATIONS OF APPLICANT. — 1. An applicant shall be eligible for initial or renewed financial assistance only if, at the time of his application and throughout the period during which he is receiving such assistance, he

(1) Is a citizen or a permanent resident of the United States;

(2) Is a resident of the state of Missouri, as determined by reference to standards promulgated by the coordinating board;

(3) Is enrolled, or has been accepted for enrollment, as a full-time undergraduate student in an approved private or public institution;

(4) Establishes that he has financial need;

(5) Has never been convicted in any court of an offense which involved the use of force, disruption or seizure of property under the control of any institution of higher education to prevent officials or students in such institutions from engaging in their duties or pursuing their studies; and

(6) No award shall be made under sections 173.200 to 173.230 to any applicant who is enrolled, or who intends to use the award to enroll, in a course of study leading to a degree in theology or divinity.

2. Financial assistance shall be allotted for one academic year, but a recipient shall be eligible for renewed assistance until he has obtained a baccalaureate degree, provided such financial assistance shall not exceed a total of ten semesters or fifteen quarters or their equivalent. Standards of eligibility for renewed assistance shall be the same as for an initial award of financial assistance.**]**

[173.220. AMOUNT OF ASSISTANCE, HOW COMPUTED. — An applicant who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved private or public institution after August 13, 1979, and who meets the other eligibility criteria shall be entitled to financial assistance based primarily on his financial need and to the extent of his financial need as determined by the coordinating board, except that effective August 1, 1980, the amount of such grant shall not exceed the least of:

(1) The applicant's demonstrated financial need as determined by the coordinating board; or

(2) One-half the tuition and mandatory fee charges in effect the prior academic year at the approved institution the applicant plans to attend; or

(3) Fifteen hundred dollars; and until that date the grant shall not exceed the least of:

(1) The applicant's demonstrated financial need as determined by the coordinating board; or

(2) One-half the fall 1971 tuition and mandatory fee charges at the approved institution the applicant plans to attend; or

(3) Nine hundred dollars.**]**

[173.225. OTHER FINANCIAL ASSISTANCE TO BE REPORTED TO COORDINATING BOARD. — If an applicant is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the coordinating board by the institution and the recipient.**]**

[173.230. TRANSFER OF RECIPIENT TO ANOTHER SCHOOL, EFFECT OF — WITHDRAWAL, EFFECT OF. — A recipient of financial assistance may transfer from one approved public or private institution to another without losing his eligibility for assistance under sections 173.200 to 173.230, but the coordinating board shall make any necessary adjustments in the amount of his award. If a recipient of financial assistance at any time withdraws from an approved private or public institution so that under the rules and regulations of that institution he is entitled to a refund of any tuition, fees, or other charges, the institution shall pay the portion of the refund to which he may be entitled attributable to the state grant for that term to the coordinating board.**]**

[173.810. MISSOURI COLLEGE GUARANTEE PROGRAM, ESTABLISHED, PURPOSE — DEFINITIONS. — 1. There is hereby established the "Missouri College Guarantee Program" which, from funds dedicated pursuant to subsection 3 of section 313.835, RSMo, shall provide scholarships for Missouri citizens to attend a Missouri college, university or vocational or technical school of their choice.

2. The definitions of terms set forth in section 173.205, shall be applicable to such terms as used in sections 173.810 to 173.827, except that for purposes of calculating financial need, the calculated cost of attendance shall not exceed the average calculated cost of attendance at the campus of the University of Missouri which has the largest total enrollment, as determined by the coordinating board; and the amount of book expenses shall not exceed the book allowance established for this program by the coordinating board. The term "scholarship" means an amount of money paid by the state of Missouri to a qualified college, university or vocational or technical school student who has qualified for a scholarship pursuant to the provisions of sections 173.810 to 173.827.**]**

[173.813. COORDINATING BOARD, DUTIES. — The coordinating board for higher education shall be the administrative agency for the implementation of the program established by sections 173.810 to 173.827, and shall:

(1) Promulgate reasonable rules necessary to implement sections 173.810 to 173.827, including rules for granting scholarship deferments;

(2) Implement the form, schedule and method of awarding scholarships as prescribed by the board established pursuant to section 173.816, and shall supervise the processing of scholarships at the direction of such board; and

(3) Select qualified recipients to receive scholarships, make such awards of scholarships to qualified recipients and determine the manner and method of payment to the recipient.**]**

[173.816. MISSOURI COLLEGE GUARANTEE BOARD — MEMBERS — TERMS — DUTIES. — There is hereby created the "Missouri College Guarantee Board" consisting of the state commissioner of elementary and secondary education, two members of the state board of education selected by the president of such board, the state commissioner of higher education and one member of the coordinating board for higher education selected by the president of such board. Board members from the state board of education and the coordinating board for higher education shall serve three-year terms provided that one of the initial members from the state board of education shall be designated by the president of that board to serve a term of one year and the initial member from the coordinating board for higher education shall serve a two-year term. The board shall oversee the Missouri college guarantee program and shall meet at least annually to receive a report from the coordinating board for higher education on program performance. The board, unless otherwise provided in sections 173.810 to 173.827, shall, by majority vote, establish the amount, form, schedule, eligibility and method of awarding scholarships pursuant to sections 173.810 to 173.827.**]**

[173.820. ELIGIBILITY — FAILURE TO MAINTAIN GRADE POINT AVERAGE, PROBATION — SCHOLARSHIP AMOUNT, MAXIMUM, FINANCIAL NEED TO DETERMINE AMOUNT — RENEWAL OF SCHOLARSHIP, CONDITIONS — ELIGIBILITY AFTER LAPSE IN ATTENDANCE, CONDITIONS. — 1. A student shall be eligible for an initial or renewed scholarship if such student is in compliance with the eligibility requirements set forth in section 173.215, and in addition meets the following requirements:

(1) Has a cumulative grade point average of at least two and one-half on a four-point scale or equivalent on the student's high school core curriculum and has completed a high school curriculum satisfying the coordinating board's requirements for a college preparatory or technical preparatory curriculum;

(2) Has received a score of twenty or higher on the general American College Test (ACT) or a composite verbal and math score of nine hundred and fifty or higher on the Scholastic Aptitude Test (SAT);

(3) Has not been convicted of or pled guilty to any criminal offense or been adjudicated to have committed an offense which would constitute a criminal offense if committed by an adult;

(4) Has substantially participated in extracurricular activities, as determined by the coordinating board; and

(5) For the purpose of renewal, remains in compliance with the applicable provisions of section 173.215, and makes satisfactory academic degree progress as a full-time student.

2. (1) A student seeking a scholarship pursuant to sections 173.810 to 173.827 shall maintain a cumulative grade point average (GPA) of at least two point five on a four-point scale, or the equivalent on another scale approved by the program administrator while attending the approved public or private institution.

(2) If the grade point average of a member who is receiving educational assistance pursuant to sections 173.810 to 173.827 falls below two point five on a four-point scale, or the equivalent on another scale, such member shall retain the educational assistance and shall be placed on probation under the educational assistance program. Failure to achieve a current grade point average of at least two point five on a four-point scale, or the equivalent on another scale for future semesters or equivalent academic terms shall result in termination of the scholarship effective as of the next academic term. The member shall be removed from probation status upon achieving a cumulative grade point average of two point five on a four-point scale or the equivalent on another scale.

3. Scholarships shall be offered beginning for any academic term beginning within twenty-four months following the date of graduation from high school to Missouri high school graduates who meet the requirements of subsection 1 of this section. The scholarship shall be applicable toward payment for tuition and other fees and the costs of books and other education-related expenses. The amount of the scholarship, regardless of the institution attended, shall not exceed the current average cost of tuition and fees at the campus of the University of Missouri which has the largest total enrollment, as determined by the coordinating board, and a book allowance as determined by the coordinating board.

4. The amount of scholarship provided under sections 173.810 to 173.827 shall be based upon financial need as determined under sections 173.810 to 173.827, shall be subject to the maximum amount established in subsection 2 of this section and shall be further reduced by the amount of any nonloan need-based federal financial aid, all other nonloan need-based assistance received by or on behalf of the student pursuant to other provisions of this chapter and any other nonloan need-based state financial aid which aid or assistance may be used for the purposes established pursuant to subsection 2 of this section for scholarships granted pursuant to sections 173.810 to 173.827.

5. A student who is enrolled or has been accepted for enrollment as a postsecondary student at an approved private or public institution beginning with the fall 1999 term and who meets the other eligibility requirements for a scholarship pursuant to sections 173.810 to 173.827 shall, within the limits of the funds appropriated and made available, be offered a scholarship for the

first academic year of study as provided in sections 173.810 to 173.827. Such scholarship shall be renewable in like amount annually for the second, third, fourth and fifth academic years, or as long as the recipient is in compliance with the applicable eligibility requirements set forth in section 173.215, provided such years of study are continuous and the student continues to meet eligibility requirements for the scholarship. If a recipient ceases all attendance at an approved public or private institution for the purpose of providing service to a nonprofit organization, a state or federal government agency or any branch of the armed forces of the United States, the recipient shall be eligible for a renewal scholarship upon return to any approved public or private institution, provided the recipient:

(1) Returns to full-time status within twenty-seven months;

(2) Provides verification, in compliance with rules of the coordinating board, that the service to the nonprofit organization was satisfactorily completed and was not compensated other than for expenses or that the service to the state or federal governmental agency or branch of the armed forces of the United States was satisfactorily completed; and

(3) Meets all other requirements established for eligibility to receive a renewal scholarship.**]**

[173.825. TRANSFER NOT TO AFFECT ELIGIBILITY — INABILITY TO USE INITIAL SCHOLARSHIPS, WHEN, RETENTION OF ELIGIBILITY, CONDITIONS. — 1. A recipient of a scholarship awarded pursuant to sections 173.810 to 173.827 may transfer from one approved Missouri public or private institution to another without losing eligibility for the scholarship. If a recipient of the scholarship at any time withdraws from an approved private or public institution so that under the rules and regulations of that institution such recipient is entitled to a refund of any tuition, fees or other charges, the institution shall pay the portion of the refund attributable to the scholarship for that term to the coordinating board for higher education.

2. Other provisions of sections 173.810 to 173.827 to the contrary notwithstanding, if a recipient has been awarded an initial scholarship pursuant to the provisions of sections 173.810 to 173.827 but is unable to use the scholarship during the first academic year because of illness, disability, pregnancy or other medical need or if a recipient ceases all attendance at an approved public or private institution because of illness, disability, pregnancy or other medical need, the recipient shall be eligible for an initial or renewal scholarship upon enrollment in or return to any approved public or private institution, provided the recipient:

(1) Enrolls in or returns to full-time status within twenty-seven months;

(2) Provides verification of sufficient medical evidence documenting an illness, disability, pregnancy or other medical need of such person to require that the person will not be able to use the initial or renewal scholarship during the time period for which it was originally offered; and

(3) Meets all other requirements established for eligibility to receive an initial or a renewal scholarship.**]**

[173.827. MENTORING PROGRAMS FOR AT-RISK STUDENTS, GRANTS. — Upon recommendation of the coordinating board, funds may be appropriated from the Missouri college guarantee fund for distribution by the coordinating board as grants to any approved public and private institution which submits an application demonstrating how the institution will establish and operate a mentoring program which ensures that at-risk students receiving scholarships pursuant to sections 173.810 to 173.827 have a positive educational experience at the institution.**]**

[173.830. MISSOURI COLLEGE GUARANTEE FUND. — The "Missouri College Guarantee Fund" is hereby established in the state treasury. The state treasurer shall administer the fund, and the moneys in the fund shall be used solely by the coordinating board for higher education pursuant to sections 173.810 to 173.827 for the awarding of scholarships to eligible students and for other purposes specified pursuant to sections 173.810 to 173.827; provided that moneys in the fund may be used to fund graduate study scholarships provided pursuant to section 173.727. Any interest which accrues to the fund shall remain in the fund and shall be used in the same

manner as moneys which are transferred to the fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri college guarantee fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.**]**

Approved May 23, 2007

SB 397 [SCS SB 397]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to applications for long-term care facilities

AN ACT to repeal section 198.018, RSMo, and to enact in lieu thereof one new section relating to applications for long-term care facilities.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 198.018, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 198.018, to read as follows:

198.018. APPLICATIONS FOR LICENSE, HOW MADE — FEES — AFFIDAVIT — DOCUMENTS REQUIRED TO BE FILED — NURSING FACILITY QUALITY OF CARE FUND CREATED — FACILITIES MAY NOT BE LICENSED BY POLITICAL SUBDIVISIONS, BUT THEY MAY INSPECT. — 1. Applications for a license shall be made to the department by the operator upon such forms and including such information and documents as the department may reasonably require by rule or regulation for the purposes of administering sections 198.003 to 198.186, section 198.200, and sections 208.030 and 208.159, RSMo.

2. The applicant shall submit **[**an affidavit under oath that**]** all documents required by the department **[**to be filed pursuant to**]** **under** this section **[**are true and correct to the best of his knowledge and belief**]** **attesting by signature**, that the statements contained in the application are true and correct to the best of **[**his**]** **the applicant's** knowledge and belief, and that all required documents are either included with the application or are currently on file with the department.

3. The application shall be accompanied by a license fee in an amount established by the department. The fee established by the department shall not exceed six hundred dollars, and shall be a graduated fee based on the licensed capacity of the applicant and the duration of the license. A fee of not more than fifty dollars shall be charged for any amendments to a license initiated by an applicant. In addition, facilities certified to participate in the Medicaid or Medicare programs shall pay a certification fee of up to one thousand dollars annually, payable on or before October first of each year. The amount remitted for the license fee, fee for amendments to a license, or certification fee shall be deposited in the state treasury to the credit of the "Nursing Facility Quality of Care Fund", which is hereby created. All investment earnings of the nursing facility quality of care fund shall be credited to such fund. All moneys in the nursing facility quality of care fund shall, upon appropriation, be used by the division of aging

for conducting inspections and surveys, and providing training and technical assistance to facilities licensed under the provisions of this chapter. The unexpended balance in the nursing facility quality of care fund at the end of the biennium is exempt from the provisions of sections 33.080, RSMo. The unexpended balance in the nursing facility quality of care fund shall not revert to the general revenue fund, but shall accumulate in the nursing facility quality of care fund from year to year.

4. Within ten working days of the effective date of any document that replaces, succeeds, or amends any of the documents required by the department to be filed pursuant to this section, an operator shall file with the department a **[**certified**]** copy of such document. **The operator shall attest by signature that the document is true and correct.** If the operator knowingly fails to file a required document or provide any information amending any document within the time provided for in this section, a circuit court may, upon application of the department or the attorney general, assess a penalty of up to fifty dollars per document for each day past the required date of filing.

5. If an operator fails to file documents or amendments to documents as required pursuant to this section and such failure is part of a pattern or practice of concealment, such failure shall be sufficient grounds for revocation of a license or disapproval of an application for a license.

6. Any facility defined in subdivision (8), (15), (16) or (17) of section 198.006 that is licensed by the state of Missouri pursuant to the provisions of section 198.015 may not be licensed, certified or registered by any other political subdivision of the state of Missouri whether or not it has taxing power, provided, however, that nothing in this subsection shall prohibit a county or city, otherwise empowered under law, to inspect such facility for compliance with local ordinances of food service or fire safety.

Approved June 13, 2007

SB 406 [CCS#2 HCS#2 SB 406]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies several provisions regarding administration of MOSERS

AN ACT to repeal sections 50.1250, 86.1230, 86.1600, 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.910, 105.915, 105.920, 169.010, 169.070, 169.466, 169.471, 169.670, and 211.393, RSMo, and to enact in lieu thereof forty-five new sections relating to employee benefit plans.

SECTION

A. Enacting clause.
50.1250. Forfeiture of contributions, when — reversion of forfeitures — distribution of contribution account, when — death of a member, effect of.
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
87.006. Firemen, certain diseases presumed incurred in line of duty — persons covered — disability from cancer, presumption suffered in line of duties, when.
94.579. Sales tax authorized — ballot language — use of moneys — repeal of tax, ballot language — special trust fund.
103.080. High deductible plans and health savings accounts to be offered — definitions — rulemaking authority.

103.085. Termination of coverage, when, exceptions, certain persons may choose to continue coverage, requirements.
104.010. Definitions.
104.040. Members to receive credit for prior service — military service to be considered — purchase of credit for service in the armed forces, cost, interest rate, computation — certain creditable prior service, purchase of, effect — nonfederal public employment, purchase of credit for service.
104.160. Board of trustees, membership — nominations and voting rights of members of system.
104.312. Pension, annuity, benefit, right, and allowance is marital property — division of benefits order, requirements — information for courts — rejection of division of benefits order — basis for payment to alternate payee.
104.320. Retirement system to be body corporate, to be known as Missouri state employees' retirement system — powers and duties — medical benefit funds.
104.344. Member entitled to purchase prior creditable service for nonfederal full-time public employment or contractual services — method, period, limitation.
104.352. Part-time legislative employees — insurance benefits — vesting service — deferred normal and partial annuities — requirements.
104.354. Part-time legislative employee retirement benefits — funding.
104.380. Retired members elected to state office, effect of — reemployment of retired members, effect of.
104.395. Options available to members in lieu of normal annuity — spouse as designated beneficiary, when — statement that spouse aware of retirement plan elected — reversion of amount of benefit, conditions — special consultant, compensation — election to be made, when.
104.606. Purchase of creditable service, required before receipt of retirement annuity.
104.805. Employees transferred to department of transportation (MoDOT) not members of closed department of highways and transportation employees' retirement system unless election made, procedure.
104.1003. Definitions.
104.1012. Plans to be managed by appropriate boards.
104.1015. Election into year 2000 plan, effect of — comparison of plans provided — calculation of annuity.
104.1021. Credited service determined by board — calculation.
104.1024. Retirement, application — annuity payments, how paid, amount — election to receive annuity or lump sum payment for certain employees, determination of amount.
104.1027. Options for election of annuity reduction — spouse's benefits.
104.1039. Reemployment of a retiree, effect on annuity.
104.1051. Annuity deemed marital property — division of benefits.
104.1072. Life insurance benefits — medical insurance for certain retirees.
104.1087. Credited service with multiple plans, payable annuity amount.
104.1090. Additional credited service, when.
105.660. Definitions, retirement benefit changes.
105.665. Cost statement of proposed changes prepared by actuary — contents.
105.666. Board member education program required, curriculum — annual pension benefit statement required.
105.667. Gain or profit from funds or transactions of plan, prohibited when.
105.683. Plan deemed delinquent, when, effect of.
105.684. Benefit increases prohibited, when — amortization of unfunded actuarial accrued liabilities — accelerated contribution schedule required, when.
105.910. Fund established — commission established, selection of members, qualifications, meetings, when held — transfer of administration of fund.
105.915. Board to administer plan — written agreement required — immunity from liability, when.
169.010. Definitions.
169.070. Retirement allowances, how computed, election allowed, time period — options — effect of federal O.A.S.I. coverage — cost-of-living adjustment authorized — limitation of benefits — employment of special consultant, compensation, minimum benefits.
169.466. Annual pension increase, when.
169.471. Board of education authorized to increase retirement benefits, adopt and implement additional plans.
169.670. Benefits, how computed — beneficiary benefits, options, election of.
211.393. Definitions — compensation of juvenile officers, apportionment — state to reimburse salaries, when — multicounty circuit provisions — local juvenile court budget, amount maintained, when — exclusion from benefits, when.
321.800. Retirement plan, board may establish.
105.920. Liability of state or political subdivision, limit of.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.1250, 86.1230, 86.1600, 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395,

104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.910, 105.915, 105.920, 169.010, 169.070, 169.466, 169.471, 169.670, and 211.393, RSMo, are repealed and forty-five new sections enacted in lieu thereof, to be known as sections 50.1250, 86.1230, 86.1600, 87.006, 94.579, 103.080, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.606, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.666, 105.667, 105.683, 105.684, 105.910, 105.915, 169.010, 169.070, 169.466, 169.471, 169.670, 211.393, and 321.800, to read as follows:

50.1250. FORFEITURE OF CONTRIBUTIONS, WHEN — REVERSION OF FORFEITURES — DISTRIBUTION OF CONTRIBUTION ACCOUNT, WHEN — DEATH OF A MEMBER, EFFECT OF. — 1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to board matching contributions or county matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve a matching contribution, then forfeitures shall revert to the county employees' retirement fund. The proceeds of such forfeiture with respect to county matching contributions shall be applied toward matching contributions made by the respective county in accordance with rules prescribed by the board.

2. A member shall be eligible to receive a distribution of the member's defined contribution account in such form selected by the member as permitted under and in accordance with the rules and regulations formulated and adopted by the board from time to time, and commencing as soon as administratively feasible following separation from service, unless the member elects to receive the account balance at a later time, but no later than his or her required beginning date. Notwithstanding the foregoing, if the value of a member's defined contribution account balance is **[**five**]** **one** thousand dollars or less at the time of the member's separation from service, without respect to any board-matching contributions or employer-matching contribution which might be allocated following the member's separation from service, then his or her defined contribution account shall be distributed to the member in a single sum as soon as administratively feasible following his or her separation from service. The amount of the distribution shall be the amount determined as of the valuation date described in section 50.1240, if the member has at least five years of creditable service. If the member has less than five years of creditable service upon his or her separation from service, then the amount of the distribution shall equal the portion of the member's defined contribution account attributable to the member's seed contributions pursuant to section 50.1220, if any, determined as of the valuation date.

3. If the member dies before receiving the member's account balance, the member's designated beneficiary shall receive the member's defined contribution account balance, as determined as of the immediately preceding valuation date, in a single sum. The member's beneficiary shall be his or her spouse, if married, or his or her estate, if not married, unless the member designates an alternative beneficiary in accordance with procedures established by the board.

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living

adjustments determined by the retirement board not more frequently than annually. [Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.]

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. [Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.]

3. [In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4.] For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base

pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of section 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such

adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

[5.**]** **7.** The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, **[**supplemental retirement**]** **any** benefit **[**payments under subsection 1 of this section and supplemental**]** **or** compensation payments **[**as a consultant under subsection 2 of**]** **provided under** this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED. — 1. Any member who retires subsequent to August 28, 1997, **and on or before August 28, 2007,** with entitlement to a pension under sections 86.1310 to 86.1640, **and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560,** shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. **[**Such determination shall be based on advice of the plan's actuary that the increase in the benefit will not cause the present value of anticipated future plan benefits, calculated on the actuarial assumptions used for the most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.**]**

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be

determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement**; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service**. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any **[**such**]** **qualifying** surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

87.006. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — PERSONS COVERED — DISABILITY FROM CANCER, PRESUMPTION SUFFERED IN LINE OF DUTIES, WHEN. — 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

2. **Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by**

competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts and other governmental units.

94.579. SALES TAX AUTHORIZED — BALLOT LANGUAGE — USE OF MONEYS — REPEAL OF TAX, BALLOT LANGUAGE — SPECIAL TRUST FUND. — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants is hereby authorized to impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one percent, and shall be imposed solely for the purpose of providing revenues for the operation of public safety departments, including police and fire departments, and for pension programs, and health care for employees and pensioners of the public safety departments. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If the tax authorized in this section is not approved by the voters, then the city shall have an additional year during which to meet its required contribution payment beyond the time period described in section 105.683, RSMo. If the city meets its required contribution payment in this time, then, notwithstanding the provisions of section 105.683, RSMo, to the contrary, the delinquency shall not constitute a lien on the funds of the political subdivision, the board of such plan shall not be authorized to compel payment by application for writ of mandamus, and the state treasurer and the director of the department of revenue shall not withhold twenty-five percent of the certified contribution deficiency from the total moneys due the political subdivision from the state. The one-year extension shall only be available to the city on a one-time basis.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall ..... (insert the name of the city) impose a sales tax at a rate of ..... (up to one) percent, solely for the purpose of providing revenues for the operation of public safety departments of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Public Safety Protection Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for

erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The director shall keep accurate records of the amounts in the fund, and such records shall be open to the inspection of the officers of such city and to the public. Not later than the tenth day of each month, the director shall distribute all moneys deposited in the fund during the preceding month to the city. Such funds shall be deposited with the treasurer of the city, and all expenditures of moneys from the fund shall be by an appropriation ordinance enacted by the governing body of the city.

4. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the city may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the city shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for the tax and penalties under this section, the limitation for bringing suit for the collection of the delinquent tax and penalties shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city) repeal the sales tax imposed at a rate of ..... (up to one) percent for the purpose of providing revenues for the operation of public safety departments of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. The governing body of any city that has adopted the sales tax authorized in this section shall submit the question of repeal of the tax to the voters every five years from the date of its inception on a date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the city) repeal the sales tax imposed at a rate of ..... (up to one) percent for the purpose of providing revenues for the operation of public safety departments of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

9. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

103.080. HIGH DEDUCTIBLE PLANS AND HEALTH SAVINGS ACCOUNTS TO BE OFFERED — DEFINITIONS — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Health savings account" or "account", shall have the same meaning ascribed to it as in 26 U.S.C. Section 223(d), as amended;

(2) "High deductible health plan", a policy or contract of health insurance or health care plan that meets the criteria established in 26 U.S.C. Section 223(c)(2), as amended, and any regulations promulgated thereunder.

2. Beginning with the open enrollment period for the 2009 plan year, the board shall offer to all qualified state employees and retirees, in addition to the plans currently offered including but not limited to health maintenance organization plans, preferred provider organization plans, copay plans, and participating public entities the option of receiving health care coverage through a high deductible health plan and the establishment of a health savings account. In no instance shall a qualified employee be required to enroll in a high deductible health plan with a deductible greater than the minimum allowed by law, however, a qualified employee or retiree shall have the option to enroll in a high deductible health plan up to the maximum allowed by law. The health savings account shall conform to the guidelines to be established by the Internal Revenue Service for the 2009 tax year but in no case shall a qualified employee or retiree be required to contribute more than the minimum amount allowed by law. A qualified employee or retiree may contribute up to the maximum allowed by law. In order for a qualified individual to obtain a high deductible health plan through the Missouri consolidated health care plan, such individual shall present evidence, in a manner prescribed by regulation, to the board that he or she has established a health savings account in compliance with 26 U.S.C. Section 223, and any amendments and regulations promulgated thereto.

3. The board is authorized to promulgate rules and regulations for the administration and implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

4. The board shall issue a request for proposals from companies interested in offering a high deductible health plan in connection with a health savings account.

103.085. TERMINATION OF COVERAGE, WHEN, EXCEPTIONS, CERTAIN PERSONS MAY CHOOSE TO CONTINUE COVERAGE, REQUIREMENTS. — Except as otherwise provided by sections 103.003 to **[**103.175**]** **103.080**, medical benefits coverage as provided by sections 103.003 to **[**103.175**]** **103.080** shall terminate when the member ceases to be an active employee; except persons receiving or entitled to receive an annuity or retirement benefit or disability benefit or the spouse of or unemancipated children of deceased persons receiving or entitled to receive an annuity or retirement benefit or disability benefit from the state, participating member agency, institution, political subdivision or governmental entity may elect to continue coverage, provided the individuals to be covered have been continuously covered for health care benefits:

(1) Under a separate group or individual policy for the six-month period immediately preceding the member's date of death or disability or eligibility for normal or early retirement; or

(2) Pursuant to sections 103.003 to **[**103.175**]** **103.080**, since the effective date of the most recent open enrollment period prior to the member's date of death or disability or eligibility for normal or early retirement; or

(3) From the initial date of eligibility for the benefits provided by sections 103.003 to **[**103.175**]** **103.080; or**

(4) Within sixty days of a loss of group coverage, provided that such coverage was in place for at least twelve consecutive months immediately prior to the loss and that such loss was due to the dependent's termination of employment or termination of group coverage by the dependent's employer. This subdivision only applies to qualifying dependents of members receiving or entitled to receive an annuity or retirement benefit from the state, participating member agency, institution, political subdivision, or governmental entity.

Cost for coverage continued pursuant to this section shall be determined by the board. If an eligible person does not elect to continue the coverage within thirty-one days of the first day of the month following the date on which the eligible person ceases to be an employee, he or she may not later elect to be covered pursuant to this section.

104.010. DEFINITIONS. — 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave**. The board of each system may promulgate rules for purposes of calculating average compensation and other retirement provisions to accommodate for any state payroll system in which compensation is received on a monthly, semimonthly, biweekly, or other basis**;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Chapter", sections 104.010 to 104.800;

(12) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000, or any other one-time payments made as a result of such payroll system;

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(13) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by a board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(14) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(15) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter; except that in no case shall more than one day of creditable service or creditable prior service be credited any member for any one calendar day of eligible service credit as provided by law;

(16) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(17) "Department", any department or agency of the executive, legislative or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;

(18) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(19) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(20) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand **forty** hours per year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. **[**Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-

month period beginning on the first day of employment.**]** However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed employees for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) Any person who **is not a retiree and** has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand **forty** hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period; **except that persons described in this paragraph shall not include any such persons who are employed on or after August 28, 2007, and who have not previously been employed in such positions;**

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

(d) **[**As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(e)**]** The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(21) "Employer", a department of the state;

(22) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(23) "Fiscal year", the period beginning July first in any year and ending June thirtieth the following year;

(24) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(25) "Fund", the benefit fund of a system established pursuant to this chapter;

(26) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(27) "Member", as used in sections 104.010 to 104.272 or 104.601 to 104.800 shall mean **[**a member of the highways and transportation employees' and highway patrol retirement system without regard to whether or not the member has been retired**] an employee, retiree, or former employee entitled to a deferred annuity covered by the Missouri department of transportation and highway patrol employees' retirement system**. "Member", as used in this section and sections 104.312 to 104.800, shall mean **[**a member of**] an employee, retiree, or former employee entitled to deferred annuity covered by** the Missouri state employees' retirement system **[**without regard to whether or not the member has been retired**]**;

(28) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(29) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army national guard and Air national guard

when engaged in active duty for training, inactive duty training or full-time national guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(30) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(31) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the highways and transportation employees' and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least forty-eight years of age;

(32) "Payroll deduction", deductions made from an employee's compensation;

(33) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(34) "Reduced annuity", an actuarial equivalent of a normal annuity;

(35) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(36) "System" or "retirement system", the **[**highways and transportation employees' and highway patrol retirement system**]** **Missouri department of transportation and highway patrol employees' retirement system**, as created by sections 104.010 to 104.270, or sections 104.601 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(38) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace officer powers given by the provisions of chapter 306, RSMo;

(39) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference. **Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as amended. Such plan shall be created solely for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The board of trustees**

may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

104.040. MEMBERS TO RECEIVE CREDIT FOR PRIOR SERVICE — MILITARY SERVICE TO BE CONSIDERED — PURCHASE OF CREDIT FOR SERVICE IN THE ARMED FORCES, COST, INTEREST RATE, COMPUTATION — CERTAIN CREDITABLE PRIOR SERVICE, PURCHASE OF, EFFECT — NONFEDERAL PUBLIC EMPLOYMENT, PURCHASE OF CREDIT FOR SERVICE. — 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to **[**104.270**]** **104.272** for all service in the United States Army, Navy, or other armed services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

2. Any member of the system who served as an employee prior to the original effective date of sections 104.010 to **[**104.270**]** **104.272**, but was not an employee on that date, shall be entitled to creditable prior service that such member would have been entitled to had such member become a member of the retirement system on the date of its inception if such member has, or hereafter attains, one year of continuous membership service.

3. Any employee who completes one continuous year of creditable service in the system shall receive credit for service with a state department, if such service has not otherwise been credited.

4. Any member who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after his or her discharge under honorable conditions may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to his or her service in the armed services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had the member been a member for the period for which the member is electing to purchase credit and had his or her compensation during such period of membership been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from date of employment from which the member could first receive creditable service to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to this subsection shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any uniformed member of the highway patrol who served as a certified police officer prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the police force, but not to exceed four years, if he or

she is not receiving and is not eligible to receive credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

6. Any **[**uniformed**]** member of the **[**highway patrol**]** **system under section 104.030 or 104.170 who is an active employee and** who served as a nonfederal full-time public employee in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public plan for the service to be purchased**[**, and an affidavit so stating shall be filed by the member with the retirement system**]**. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section. **All purchase payments under this subsection must be completed prior to retirement or prior to termination of employment. If a member who purchased creditable service under this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such creditable service. The surviving spouse shall not be eligible for a refund under this subsection if he or she is entitled to survivorship benefits payable under section 104.140. A member who is entitled to a deferred annuity under section 104.035 shall be ineligible to purchase service under this subsection.**

104.160. BOARD OF TRUSTEES, MEMBERSHIP — NOMINATIONS AND VOTING RIGHTS OF MEMBERS OF SYSTEM. — The board of trustees shall consist of three members of the state highways and transportation commission elected by the members of the commission. The superintendent of the highway patrol and the director of the department of transportation shall serve as members by virtue of their respective offices, and their successors shall succeed them as members of the board of trustees. In addition, one member of the senate appointed by the president pro tem of the senate and one member of the house of representatives, appointed by

the speaker of the house shall serve as members of the board of trustees. In addition to the appointed legislators, two active employee members of the system shall be elected by a plurality vote of the active employee members of the system, herein designated for four-year terms to commence July 1, 1982, and every four years thereafter. One elected member shall be elected from the active employees of the department of transportation and one elected member shall be elected from the active employees of the civilian or uniformed highway patrol. In addition to the two active employee members, **[**one retired member**]** **two retirees** of the system shall be elected to serve on the board by a plurality vote of the **[**retired members**]** **retirees** of the system. **[**The retired member**]** **One retiree** shall be elected by the retired employees of the transportation department and **one retiree shall be elected by** the retired **[**members**]** **employees** of the civilian or uniformed highway patrol. **[**The first retired member elected to the board shall serve for a term which shall commence on January 1, 1993, and expire on June 30, 1994. Subsequently elected retired members shall serve for four-year terms commencing on July 1, 1994, and every four years thereafter, which shall coincide with the terms of the active employee members of the board.**]** **The retiree serving on the board on August 28, 2007, shall continue to serve on the board as the representative of the retired employees of the transportation department until June 30, 2010. An election shall be held prior to January 1, 2008, for the retiree to be elected by the retired employees of the civilian or uniformed highway patrol with said term to commence on January 1, 2008, and expire on June 30, 2010. All terms of elected retired employees shall be for four years after June 30, 2010.** The board shall determine the procedures for nomination and election of the elective board members. Nominations may be entered by any member of the system, provided members of the system have a reasonable opportunity to vote.

104.312. PENSION, ANNUITY, BENEFIT, RIGHT, AND ALLOWANCE IS MARITAL PROPERTY — DIVISION OF BENEFITS ORDER, REQUIREMENTS — INFORMATION FOR COURTS — REJECTION OF DIVISION OF BENEFITS ORDER — BASIS FOR PAYMENT TO ALTERNATE PAYEE. — 1. The provisions of subsection 2 of section 104.250, subsection 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, between the parties to any action for dissolution of marriage. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity or retirement plan not selected by the member and not normally made available by that system;

(2) Shall not require the applicable retirement system to commence payments until the member submits a valid application for an annuity and the annuity becomes payable in accordance with the application;

(3) Shall identify the monthly amount to be paid to the alternate payee, which shall be expressed as a percentage and which shall not exceed fifty percent of the amount of the member's annuity accrued during all or part of the time while the member and alternate payee were married; and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order, which amount shall be adjusted proportionately if the member's annuity is reduced due to early retirement **or the member's annuity is reduced pursuant to section 104.395 under an annuity option in which the member named the alternate payee as beneficiary prior to the dissolution of marriage or pursuant to section 104.090 under an annuity option in which the member on or after August 28, 2007, named the alternative payee as beneficiary prior to the**

dissolution of marriage, and the percentage established shall be applied to the pro rata portion of any lump sum distribution pursuant to subsection 6 of section 104.335, accrued during the time while the member and alternate payee were married;

(4) Shall not require the payment of an annuity amount to the member and alternate payee which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any benefit formula increases, additional years of service, increased average compensation or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member; except that on or after September 1, 2001, any annual benefit increase shall not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;

(6) Shall terminate upon the death of either the member or the alternate payee, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address and Social Security number of both the member and the alternate payee, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system established by this chapter shall provide the court having jurisdiction of a dissolution of marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member or the member's spouse, which cites this section and identifies the case number and parties.

3. A system established by this chapter shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the alternate payee;

(2) The order is inconsistent with any law governing the retirement system.

4. The amount paid to an alternate payee under an order issued pursuant to this section shall be based on **[**what the member would have received had the member elected coverage under the closed plan pursuant to section 104.1015 regardless of the actual election made by the member pursuant to that section**]** **the plan the member was in on the date of the dissolution of marriage**; except that any annual benefit increases subject to division shall be based on the actual annual benefit increases received after the retirement plan election.

104.320. RETIREMENT SYSTEM TO BE BODY CORPORATE, TO BE KNOWN AS MISSOURI STATE EMPLOYEES' RETIREMENT SYSTEM — POWERS AND DUTIES — MEDICAL BENEFIT FUNDS. — 1. For the purpose of providing retirement income and other benefits to employees of the state, there is hereby created and established a retirement system which shall be a body corporate and an instrumentality of the state, which shall be under the management of a board of trustees herein described, and shall be known as the "Missouri State Employees' Retirement System". In the system shall be vested the powers and duties specified in sections 104.010 and 104.320 to 104.800 and such other powers as may be necessary or proper to enable it, its officers, employees, and agents to carry out fully and effectively all the purposes of sections 104.010 and 104.320 to 104.800.

2. Notwithstanding any provision of law to the contrary, the system is also authorized and empowered to provide services in connection with medical benefit funds established or maintained for state employees, retirees, and their dependents who are participants in a state medical plan administered by the Missouri consolidated health plan established under section 103.005, RSMo, or other medical benefit plans established or maintained

by the state for its employees, retirees, and their dependents. All such plans described in this section shall be welfare plans referred to as "State Medical Plans". The services to be provided by the system shall include, but not be limited to, the investment of assets of such state medical plans. Such services to be provided by the system shall be provided under a trust agreement between the board, as trustee, and the state medical plan, subject to approval by the board of trustees of the Missouri state employees' retirement system and the state medical plan. The system shall be vested with the powers and duties specified in section 104.010 and sections 104.320 to 104.1093 and such other powers as may be necessary or proper to enable it, its officers, employees, and agents to carry out fully and effectively all the purposes of this subsection. Whenever the system is acting under section 104.010 and sections 104.320 to 104.1093 with respect to services provided under this subsection, the provisions of such sections shall be read to apply to services provided under this subsection and not to services provided under subsection 1 of this section.

3. Notwithstanding any provision of law to the contrary, the board shall set up and maintain a separate employee and retiree medical benefit trust for each state medical plan that the system contracts with under subsection 2 of this section in which shall be placed contributions made to the board by the state of Missouri, either directly or indirectly through the medical benefit plan, to fund benefits payable under such state medical plan. No such contributions made from the medical benefit plan's trust fund shall be transferred to the board without the approval of the medical benefit plan's governing body. All property, money, funds, investments, and rights so received and accepted by the board together with proceeds and reinvestments thereof shall be dedicated to and held in a separate trust, known as the medical benefit trust, for the exclusive purpose of satisfying the obligations of the applicable state medical plan to pay health care and other medical benefits to employee and retiree participants and their dependents under such state medical plan. At no time shall any part of a medical benefit trust be used for or diverted to any purpose other than for the exclusive purpose of satisfying the obligations of the applicable state medical plan to provide health care and other medical benefits to employee and retiree participants and their dependents, including payment of benefits on behalf of such participants under such state medical plan and payment of reasonable expenses of the medical benefit trust. The board may establish one or more trust instruments that set forth the terms and conditions for holding, investing, and distributing assets of a medical benefit trust that are consistent with subsection 2 of this section. Such medical benefit trust may be irrevocable. A separate account for a state medical plan may be established under a separate trust instrument. The board may consolidate the retiree assets of one or more medical benefit trusts in a single fund or funds, a "master trust", that may be commingled for investment purposes, and subject to the applicable trust agreement, may commingle the retiree assets of one or more medical benefit trusts with assets of the system for investment purposes. In the event the board commingles assets of one or more trusts for investment purposes, it shall maintain separate bookkeeping accounts reflecting the separate share in each investment pool of each participating trust. The board shall have power to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights, and securities and enter into written contracts and may employ or contract with third-party advisors all as may be necessary or proper to carry out the purposes of this subsection and subsection 2 of this section. The board shall have the power to borrow money for any of the authorized purposes of the board and to issue negotiable notes, bonds, or other instruments in writing in evidence of the sum or sums to be borrowed. Whenever the system is acting under section 104.010 and sections 104.320 to 104.1093 with respect to an account established under this subsection, the provisions of such sections shall be read to apply to an account

provided under this subsection and not accounts established under subsection 1 of section 104.440.

4. The board shall make such payments from a medical benefit trust to or for the benefit of the participants in a state medical plan and their dependents, at such time, in such manner, in such amounts, in such form, and for such purposes as may be specified in one or more directives by the state medical plan administrator authorized to direct payment of benefits under such state medical plan from time to time or as provided in a trust agreement governing such medical benefit trust, and the board shall have no responsibility and shall be without liability for any payment made under such direction. The board shall be under no duty or obligation to make any inquiry or investigation as to whether any direction is made under the provisions of any state medical plan and shall not be responsible in any respect for the administration of any state medical plan. Payment in response to such direction shall be a complete discharge of the board of its responsibility for the holding and safekeeping of such assets and any assets paid over shall no longer constitute part of the medical benefit trust.

5. The board shall invest the funds of a medical benefit trust in the same manner as it invests funds of the retirement system as permitted by sections 105.686 to 105.690, RSMo.

6. The board may authorize the executive director to assist with programs and procedures pertaining to payroll for state employees and any state employee benefits as requested by the office of administration or other state agencies.

104.344. MEMBER ENTITLED TO PURCHASE PRIOR CREDITABLE SERVICE FOR NONFEDERAL FULL-TIME PUBLIC EMPLOYMENT OR CONTRACTUAL SERVICES — METHOD, PERIOD, LIMITATION. — Notwithstanding any other law to the contrary, any person who is actively employed by the state of Missouri in a position covered by a retirement plan administered by the Missouri state employees' retirement system and who had nonfederal full-time public employment in the state of Missouri **[**or who had provided full-time services for compensation to the state of Missouri under a contract**]**, and who by virtue of such employment was a member of a retirement system or other employer-sponsored retirement plan other than the Missouri state employees' retirement system but is not vested in such other retirement system or plan, or was not a member of any retirement system or plan, may elect, prior to retirement, to purchase all of the member's creditable prior service but not to exceed four years for such service in any plan administered by the Missouri state employees' retirement system in which the person is receiving service credit for active employment or is eligible for a deferred annuity. The purchase shall be effected by the person paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state in his or her behalf had the person been a member for the period for which he or she is electing to purchase credit and had the person's compensation during such period been the same as the annual salary rate at which the person was initially employed in a position covered by a plan administered by the Missouri state employees' retirement system **or the Missouri department of transportation and highway patrol employees' retirement system**, with the calculations based on the contribution rate in effect on the date of his or her employment under the provisions of the Missouri state employees' retirement system with simple interest calculated from the date of employment from which the person could first receive creditable service from the Missouri state employees' retirement system to the date of election to purchase such service. The payment shall be made over a period of not longer than two years, with simple interest on the unpaid balance. In no event shall any **[**person receive credit or benefits under any other**]** **individual be eligible to purchase creditable service under this section if such individual after the completion of such purchase has or will receive credit or service under another** retirement plan as defined pursuant to section 105.691, RSMo, for **[**creditable service**]** **the same time period of service**

being purchased pursuant to the provisions of this section. The contribution rate for any judge who elects to purchase service for a period prior to July 1, 1998, shall be equal to a contribution rate which would be used if the judicial system were funded on an actuarial basis prior to that date.

104.352. PART-TIME LEGISLATIVE EMPLOYEES — INSURANCE BENEFITS — VESTING SERVICE — DEFERRED NORMAL AND PARTIAL ANNUITIES — REQUIREMENTS. — 1. **[**Any employee or former employee described in paragraph (b) of subdivision (18) of section 104.010 is entitled to credit for all prior service and membership service as if he had been a member of the system on the date of its inception. Any such employee shall be considered a member of the system from the date of his or her employment and shall receive credit for each month of service for which he is employed with service being computed as if part-time employment with the general assembly were full-time employment for the period the member was so employed.

2.**]** Each employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 shall be entitled to the same insurance benefits provided under sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of subdivision **[**(18)**] (20)** of section 104.010 to cover the medical expenses of such employees and their spouses and children. Such insurance benefits shall be made available to employees described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 upon their initial employment as such employees in the same manner provided for employees described in paragraph (a) of subdivision **[**(18)**] (20)** of section 104.010, and shall be continued during any period of time, not to exceed one year, in which such employees are not paid for full-time employment, so long as such employees pay the same amount for such insurance benefits as is required of employees described in paragraph (a) of subdivision **[**(18)**] (20)** of section 104.010 who continue receiving such insurance benefits during a leave of absence without pay from their employment with the state. Any employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 who is reemployed by the general assembly or either house thereof, or by any member of the general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, without having elected to discontinue the insurance benefits described in this subsection, shall be entitled to continue such insurance benefits without having to prove insurability for himself or any of his covered dependents for whom he has paid for such coverage continuously since last employed as an employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010. Any employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 who is not reemployed by the general assembly or either house thereof, or by any member of the general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, shall be deemed terminated as an employee as of such thirteenth legislative day, and the insurance benefits provided for such employee under this subsection and sections 103.003 to 103.175, RSMo, shall be terminated as provided for employees described in paragraph (a) of subdivision **[**(18)**] (20)** of section 104.010 whose employment is terminated. During each month of service in which an employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 is employed, the state shall make any contribution required by sections 103.003 to 103.175, RSMo, for such employee.

[3.**]** **2.** Any employee described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 who is actively employed on or after September 28, 1992, shall be deemed vested for purposes of determining eligibility for benefits under sections 104.320 to 104.620 after being so employed for at least sixty months.

104.354. PART-TIME LEGISLATIVE EMPLOYEE RETIREMENT BENEFITS — FUNDING. — In each fiscal year in which retirement benefits are to be paid to retired employees described in paragraph (b) of subdivision **[**(18)**] (20)** of section 104.010 because of the provisions of section 104.352, funding for such benefits shall be provided as set forth in section 104.436. All benefits paid because of the provisions of section 104.352 shall be paid by the retirement system along with all other retirement benefits due such retired employees under the retirement system.

104.380. RETIRED MEMBERS ELECTED TO STATE OFFICE, EFFECT OF — REEMPLOYMENT OF RETIRED MEMBERS, EFFECT OF. — If a retired member is elected to any state office or is appointed to any state office or is employed by a department in a position normally requiring the performance by the person of duties during not less than one thousand **forty** hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service **continuously for at least one year** in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand **forty** hours per year, the member shall not be considered an employee as defined pursuant to section 104.010. A retired member who becomes reemployed as an employee on or after August 28, 2001, in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the state employees' retirement system.

104.395. OPTIONS AVAILABLE TO MEMBERS IN LIEU OF NORMAL ANNUITY — SPOUSE AS DESIGNATED BENEFICIARY, WHEN — STATEMENT THAT SPOUSE AWARE OF RETIREMENT PLAN ELECTED — REVERSION OF AMOUNT OF BENEFIT, CONDITIONS — SPECIAL CONSULTANT, COMPENSATION — ELECTION TO BE MADE, WHEN. — 1. In lieu of the normal annuity otherwise payable to a member pursuant to **[**section**]** **sections** 104.335, 104.370, 104.371, 104.374**,** or 104.400, and prior to the last business day of the month before the annuity starting date pursuant to section 104.401, a member shall elect whether or not to have such member's normal annuity reduced as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after such annuity starting date shall be made the month following the receipt by the system of such election, and further provided, that if such person dies after such annuity starting date but before making such election, no benefits shall be paid except as required pursuant to section 104.420:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced annuity at the date of the member's death shall be continued throughout the life of, and be paid to, the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for

retirement or as otherwise provided pursuant to subsection 5 of this section. Such annuity shall be reduced in the same manner as an annuity under option 2 as in effect immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during the member's retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's annuity at the date of the member's death shall be paid to the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided pursuant to subsection 5 of this section, in regular monthly payments for life. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 3. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such one hundred twenty months' period shall be paid **[**to the retirant's estate**] as provided under subsection 3 of section 104.620**. If such beneficiary dies after the member's date of death but before having received the remainder of the one hundred twenty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period shall be paid **[**to the beneficiary's estate**] as provided under subsection 3 of section 104.620**; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there be no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such sixty months' period shall be paid **[**to the retirant's estate**] as provided under subsection 3 of section 104.620**. If such beneficiary dies after the member's date of death but before having received the remainder of the sixty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of the sixty-month period shall be paid **[**to the beneficiary's estate**] as provided under subsection 3 of section 104.620**.

2. Effective July 1, 2000, if a member is married as of the annuity starting date to a person who has been the member's spouse, the member's annuity shall be paid pursuant to the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. For members who retire on or after August 28, 1995, in the event such member elected a joint and survivor option pursuant to the provisions of this section and the member's eligible spouse or eligible former spouse precedes the member in death, the member's annuity shall revert effective the first of the month following the death of the spouse or eligible former spouse regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity. **If a member**

dies prior to notifying the system of the spouse's death, the benefit will not revert to a normal annuity and no retroactive payments shall be made.

4. Effective on or after August 28, 1995, any retired member who had elected a joint and survivor option and whose spouse or eligible former spouse precedes or preceded the member in death shall upon application to the board be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As a special consultant pursuant to the provisions of this section, the member's reduced annuity shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first of the month following the death of the spouse or eligible former spouse or August 28, 1995, whichever is later, **[**regardless of when the board receives the member's written application**] if the member cancels the member's original joint and survivor election**; such annuity shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the date retirement benefits are initiated if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

(1) The member elected to receive a normal annuity and was not eligible to elect option 1 or 2 on the date retirement benefits were initiated; or

(2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of this section and the member remarried.

6. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters, and for such services shall be eligible to elect to receive the benefits described in subsection 5 of this section.

7. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.401 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

8. A member may change a member's election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.

104.606. PURCHASE OF CREDITABLE SERVICE, REQUIRED BEFORE RECEIPT OF RETIREMENT ANNUITY. — Any member of either system who purchases creditable service or credited service under this chapter or chapter 105, RSMo, shall apply and complete the purchase prior to applying to receive a retirement annuity in order to receive credit for such purchase.

104.805. EMPLOYEES TRANSFERRED TO DEPARTMENT OF TRANSPORTATION (MODOT) NOT MEMBERS OF CLOSED DEPARTMENT OF HIGHWAYS AND TRANSPORTATION EMPLOYEES' RETIREMENT SYSTEM UNLESS ELECTION MADE, PROCEDURE. — 1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this section and sections 226.008, 389.005, 389.610, and 621.040, RSMo, transferred to the department of transportation will not become members of the closed plan of the **[**highways and transportation employees' and highway patrol**] Missouri department of transportation and highway patrol employees'** retirement system unless they elect to transfer membership and creditable service to the closed plan of the **[**highways and transportation employees' and highway patrol**] Missouri department of transportation and**

highway patrol employees' retirement system. The election must be in writing and must be made within **[**ninety**]** **sixty** days of **[**July 11, 2002**]** **August 28, 2007**. Any election to transfer membership and creditable service to the **[**highways and transportation employees' and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, **[**2003**]** **2008**.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are, as a result of the provisions of this section and sections 226.008, 389.005, 389.610, and 621.040, RSMo, transferred to the department of transportation will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the **[**highways and transportation employees' and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system. The election must be in writing and must be made within **[**ninety**]** **sixty** days of **[**July 11, 2002**]** **August 28, 2007**. Any election to transfer membership and credited service to the year 2000 plan administered by the **[**highways and transportation employees' and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, **[**2003**]** **2008**.

3. For any employee who elects under subsection 1 or 2 of this section to transfer to the **[**highways and transportation employees' and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system, the Missouri state employees' retirement system shall pay to the **[**highways and transportation employees' and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system, by December 31, **[**2002**]** **2007**, an amount actuarially determined to equal the liability transferred from the Missouri state employees' retirement system.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. For any transferred employee who elects under subsection 1 or 2 of this section to transfer to the **[**highways and transportation employee's and highway patrol**]** **Missouri department of transportation and highway patrol employees'** retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be January 1, **[**2003**]** **2008**. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

6. Those employees transferred to the department of transportation prior to January 1, 2003, under the provisions of this section and sections 226.008, 389.005, 389.610, and 621.040, RSMo, shall not be eligible for the election provisions under this section.

104.1003. DEFINITIONS. — 1. Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

(1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

(2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;

(3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;

(4) "Annuity starting date" means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

(5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

(6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

(7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;

(8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093; **except that in no case shall more than one day of credited service be credited to any member or vested former member for any one calendar day of eligible credit as provided by law;**

(10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;

(11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;

(12) "Effective date", July 1, 2000;

(13) "Employee" shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand **forty** hours per year, provided:

(a) The term "employee" shall not include any patient or inmate of any state, charitable, penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(c) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment;

(e) The term "employee" shall include any person as defined under paragraph (b) of subdivision (20) of subsection 1 of section 104.010 who is first employed on or after July 1, 2000, but prior to August 28, 2007;

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established pursuant to the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave

of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed**. The board of each system may promulgate rules for purposes of calculating final average pay and other retirement provisions to accommodate for any state payroll system in which pay is received on a monthly, semimonthly, biweekly, or other basis**;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", or "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least forty-eight years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least forty-eight years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave;

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; **[**and**]**

d. Any nonrecurring single sum payments; **and**

e. Any amounts for which contributions have not been made in accordance with section 104.1066;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the **[**transportation department and highway patrol retirement system**]** **Missouri department of transportation and highway patrol employees' retirement system**, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

2. Benefits paid under the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as amended. Such plan shall be created solely for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

104.1012. PLANS TO BE MANAGED BY APPROPRIATE BOARDS. — 1. Any new state employee who would have become a member of the closed plan administered by the transportation department and highway patrol retirement system except for the creation of the year 2000 plan and persons covered by the closed plan administered by the highway and transportation employees' and highway patrol retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

2. Any new state employee who would have become a member of the closed plan administered by the Missouri state employees' retirement system except for the creation of the year 2000 plan or persons covered by the closed plan administered by the Missouri state employees' retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

3. In the event either board of trustees elects to provide employees, members, or vested former members under either the closed plan or the year 2000 plan with education or advice pertaining to any aspect of retirement planning, the board will not be liable for the retirement or investment decisions made or not made by employees, members, or vested former members so long as the board acts with the same care, skills, prudence, and diligence in the selection and monitoring of providers of education and advice, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.

104.1015. ELECTION INTO YEAR 2000 PLAN, EFFECT OF — COMPARISON OF PLANS PROVIDED — CALCULATION OF ANNUITY. — 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage. Any such person who elects to be covered by the year 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under the year 2000 plan and all creditable service of such person under the closed plan shall be credited under the year 2000 plan. Any such person who elects not to be covered by the year 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except as described in subsection 2 of this section.

2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate system a written comparison of the retiree's closed plan coverage and the retiree's potential year 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage by making a written election, on a form furnished by the appropriate board, and providing that form to the system by no later than twelve months after July 1, 2000, and any retiree who fails to make such election within such time period shall be deemed to have elected to remain covered under the closed plan; provided the election must be after the retiree has received from the appropriate system such written comparison. The retirement option elected under the year 2000 plan shall be the same as the retirement option elected under the closed plan, except any retiree who is receiving one of the options providing for a continuing lifetime annuity to a surviving spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section

104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was married to the member at the time of retirement, if any, consents in writing to such election made pursuant to section 104.1024, or to any election described in this section if the person was married to a member of the Missouri state employees' retirement system. The effective date of payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year 2000 plan pursuant to this subsection, the following calculations shall be made:

(1) Except as otherwise provided in this subsection, the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the percentage increase in the life annuity formula between the closed plan and the year 2000 plan. This amount shall be added to the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the retiree's original annuity under the closed plan shall remain the same in the annuity payable under the year 2000 plan, except as provided in subdivision (2) of this subsection.

(2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this subsection shall be recalculated using the reduction factors for the option chosen pursuant to section 104.1027.

(3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the additional temporary annuity shall be calculated by multiplying the retiree's credited service by the retiree's final average pay by eight-tenths of one percent.

(4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000.

(5) Any retiree or other person described in this section who elects coverage under the year 2000 plan based on service rendered as a member of the general assembly or as a statewide elected official shall receive an annuity under the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7 of section 104.1084.

3. Each person who is an employee and covered by the closed plan and not a retiree of the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, such election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

4. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan

coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

5. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall be covered under the closed plan; provided, such person shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

6. Each person who is not an employee and not a retiree and not eligible for a deferred annuity from the closed plan but has forfeited creditable service with the closed plan and becomes an employee on or after August 28, 2002, shall be changed to year 2000 plan coverage and upon receiving credited service continuously for one year shall receive credited service for all such forfeited creditable service under the closed plan.

7. Each person who was employed as a member of the general assembly through December 31, 2000, covered under the closed plan, and has served at least two full biennial assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age requirements under the new plan.

8. The retirees and persons described in subsections 2 and 4 of this section shall be eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

9. A member may change a member's plan election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.

104.1021. CREDITED SERVICE DETERMINED BY BOARD — CALCULATION. — 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination, the member's or former member's unused sick leave as reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the department, for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month. Such credited

service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, "credited service" means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service pursuant to this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to last becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. A member may not purchase any credited service described in this section unless the member has met the five-year minimum service requirement as provided in subdivisions (11) and (20) of **subsection 1 of** section 104.1003, the **[**two**]** **three** full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. RETIREMENT, APPLICATION — ANNUITY PAYMENTS, HOW PAID, AMOUNT — ELECTION TO RECEIVE ANNUITY OR LUMP SUM PAYMENT FOR CERTAIN EMPLOYEES, DETERMINATION OF AMOUNT. — 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall not be earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement. **The payment of the annuity shall be made the last working day of each month, providing all documentation required under section 104.1027 for the calculation and payment of the benefits is received by the board.**

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least forty-eight years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits**, but no later than age sixty-two**.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective July 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment;

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order; and

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.1027. OPTIONS FOR ELECTION OF ANNUITY REDUCTION — SPOUSE'S BENEFITS. — 1. Prior to the last business day of the month before the annuity starting date, a member or a vested former member shall elect whether or not to have such member's or such vested former member's life annuity reduced, but not any temporary annuity which may be payable, and designate a beneficiary, as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.1030:

Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-two years**[**, to a maximum increase of three and six-tenths percent**]**; and if the beneficiary's age is younger than the retiree's

age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-five percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of four-tenths of one percent for each year the retiree's age is younger than sixty-two years**[**, to a maximum increase of four and eight-tenths percent**]**; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid **[**to the retiree's estate**] as provided under subsection 3 of section 104.620**. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid **[**to the beneficiary's estate**] as provided under subsection 3 of section 104.620**.

Option 4. A retiree's life annuity shall be reduced to ninety percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid **[**to the retiree's estate**] as provided under subsection 3 of section 104.620**. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid **[**to the beneficiary's estate**] as provided under subsection 3 of section 104.620**.

2. If a member is married as of the annuity starting date, the member's annuity shall be paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this section and if the member's spouse or eligible former spouse dies after the annuity starting date but before the member dies, then the member may cancel the member's election and return to the life annuity form of payment and annuity amount, effective the first of the month following the date of such spouse's or eligible former spouse's death. **If a member dies prior to notifying the system of the spouse's death, the benefit will not revert to a life annuity and no retroactive payments shall be made.**

4. If a member designates a spouse as a beneficiary pursuant to this section and subsequently that marriage ends as a result of a dissolution of marriage, such dissolution shall not affect the option election pursuant to this section and the former spouse shall continue to be eligible to receive survivor benefits upon the death of the member.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the annuity starting date as described in this section if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, pursuant to any of the following circumstances:

(1) The member elected to receive a life annuity and was not eligible to elect option 1 or 2 on the annuity starting date; or

(2) The member's annuity reverted to a normal or early retirement annuity pursuant to subsection 3 of this section, and the member remarried.

6. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.1024 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

7. A member may change a member's election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.

104.1039. REEMPLOYMENT OF A RETIREE, EFFECT ON ANNUITY. — If a retiree is employed as an employee by a department, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service **[**upon subsequent retirement**]** **and must accrue credited service continuously for at least one year in order to receive any additional annuity**. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity pursuant to this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created pursuant to this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.

104.1051. ANNUITY DEEMED MARITAL PROPERTY — DIVISION OF BENEFITS. — 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity or retirement plan not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify the monthly amount to be paid to the former spouse, which shall be expressed as a percentage and which shall not exceed fifty percent of the amount of the member's annuity accrued during all or part of the period of the marriage of the member and former spouse and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order, which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity **or the member's annuity is reduced pursuant to section 104.1027 under an annuity option in which the member named the alternate payee as beneficiary prior to the dissolution of marriage**;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, additional years of credited service, increased final average pay, increased pay pursuant to subsections 2 and 5 of section 104.1084, or other type of increases accrued after the date of the dissolution of marriage and any temporary annuity received pursuant to subsection 4 of section 104.1024 shall accrue solely to the benefit of the member; except that on or after September 1, 2001, any cost-of-living adjustment (COLA) due after the annuity starting date shall not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the former spouse;

(2) The order is inconsistent with any law governing the retirement system.

4. Any member of the closed plan who elected the year 2000 plan pursuant to section 104.1015 and then becomes divorced and subject to a division of benefits order shall have the division of benefits order calculated pursuant to the provisions of the year 2000 plan.

104.1072. LIFE INSURANCE BENEFITS — MEDICAL INSURANCE FOR CERTAIN RETIREES. — 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) Any member who terminates employment after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased prior to January 1, 2004, is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity based on the attainment of at least forty-eight years of age with a total of years of age and years of credited service which is at least eighty shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits **but no later than age sixty-two,** at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for retirees and their dependents shall be paid by the members or retirees. The commission may contract with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations for all, or any part of, the benefits provided for in this section. The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision (2) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance. In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.

5. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide life insurance provided for pursuant to this section:

(1) The obligation to provide such life insurance shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied life insurance benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence; and

(3) The board and the system shall not be liable for life insurance benefits provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.1087. CREDITED SERVICE WITH MULTIPLE PLANS, PAYABLE ANNUITY AMOUNT. — 1. If a member has credited service with more than one selected plan at time of separation of covered employment from all selected plans, then the annuity payable from each selected plan shall be based upon the annuity program, pay record and service record with that selected plan; provided, however, that the total of credited service with all selected plans shall be used for the sole purpose of determining whether or not the member has met the credited service requirement contained in subdivisions (11) and (20) of **subsection 1 of** section 104.1003 and subsections 1 and 4 of section 104.1084 for each selected plan.

2. The selected plans cited in this section are:

(1) Year 2000 plan - basic provisions;

(2) Year 2000 plan - general assembly provisions;

(3) Year 2000 plan - statewide elected official provisions.

104.1090. ADDITIONAL CREDITED SERVICE, WHEN. — 1. Any member who as described in subdivision (1) of subsection 1 of section 104.1009 has been employed in a position covered by the system for at least ten or more years and has received credited service for such employment in the year 2000 plan shall receive additional credited service for previous public employment within the state covered by another retirement plan as defined in section 105.691, RSMo, if all of the following conditions are met:

(1) Such member has a vested right to receive a retirement benefit from the other retirement plan at the time of application pursuant to this section;

(2) The other retirement plan transfers to the system an amount equal to the employee's account balance under a defined contribution plan or the amount equal to the employee's pension benefit obligation under a defined benefit plan at the time of transfer to the extent that obligation

is funded as of the plan's most recent actuarial valuation, not to exceed one hundred percent, as determined by the other retirement plan's actuary using the same assumption used in performing the last regular actuarial valuation of the transferring plan, except that in no event shall the transferred amount be less than the employee's accumulated contributions on deposit with the transferring plan;

(3) No such credited service remains credited in such other retirement plan; **[**and**]**

(4) The member applies for the additional credited service prior to the members's annuity starting date in manner and form established by the appropriate board. Such additional credited service shall be added to the credited service in the first position of employment held as a member of the system**; and**

(5) The other retirement plan enters into an agreement with the system to comply with the provisions of this section.

2. Any member described in subsection 3 of section 104.1015 who elects to be covered by the year 2000 plan shall be eligible to receive service under the terms and conditions of subsection 1 of this section.

105.660. DEFINITIONS, RETIREMENT BENEFIT CHANGES. — The following words and phrases as used in sections 105.660 to 105.685, unless a different meaning is plainly required by the context, shall mean:

(1) "Actuarial valuation", a mathematical process which determines plan financial condition and plan benefit cost;

(2) "Actuary", an actuary (i) who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and (ii) who is experienced in retirement plan financing;

(3) **"Board", the governing board or decision-making body of a plan that is authorized by law to administer the plan;**

(4) "Defined benefit plan", a plan providing a definite benefit formula for calculating retirement benefit amounts;

(5) "Defined contribution plan", a plan in which the contributions are made to an individual retirement account for each employee;

(6) "Funded ratio", the ratio of the actuarial value of assets over its actuarial accrued liability;

(7) "Lump sum benefit plan", payment within one taxable year of the entire balance to the participant from a plan;

(8) "Plan", any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision or instrumentality of the state;

[(4)**]** **(9)** "Plan benefit", the benefit amount payable from a plan together with any supplemental payments from public funds;

[(5)**]** **(10)** "Substantial proposed change", a proposed change in future plan benefits which would increase or decrease the total contribution percent by at least one-quarter of one percent of active employee payroll, or would increase or decrease a plan benefit by five percent or more, or would materially affect the actuarial soundness of the plan. In testing for such one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits shall be added to all actual changes in plan benefits since the last date that an actuarial valuation was prepared.

105.665. COST STATEMENT OF PROPOSED CHANGES PREPARED BY ACTUARY — CONTENTS. — 1. The legislative body or committee thereof which determines the amount and type of plan benefits to be paid shall, before taking final action on any substantial proposed change in plan benefits, cause to be prepared a statement regarding the cost of such change.

2. The cost statement shall be prepared by an actuary using the methods used in preparing the most recent periodic actuarial valuation for the plan and shall, without limitation by enumeration, include the following:

(1) The level normal cost of plan benefits currently in effect, which cost is expressed as a percent of active employee payroll;

(2) The contribution for unfunded accrued liabilities currently payable by the plan, which cost is expressed as a percent of active employee payroll and shall be over a period not to exceed **[**forty**]** **thirty** years;

(3) The total contribution rate expressed as a percent of active employees payroll, which contribution rate shall be the total of the normal cost percent plus the contribution percent for unfunded accrued liabilities;

(4) A statement as to whether the legislative body is currently paying the total contribution rate as defined in subdivision (3) of this subsection;

(5) The total contribution rate expressed as a percent of active employee payroll which would be sufficient to adequately fund the proposed change in benefits;

(6) A statement as to whether such additional contributions are mandated by the proposed change;

(7) A statement as to whether or not the proposed change would in any way impair the ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

(8) All assumptions relied upon to evaluate the present financial condition of the plan and all assumptions relied upon to evaluate the impact of the proposed change upon the financial condition of the plan, which shall be those assumptions used in preparing the most recent periodic actuarial valuation for the plan, unless the nature of the proposed change is such that alternative assumptions are clearly warranted, and shall be made and stated with respect to at least the following:

(a) Investment return;

(b) Pay increase;

(c) Mortality of employees and officials, and other persons who may receive benefits under the plan;

(d) Withdrawal (turnover);

(e) Disability;

(f) Retirement ages;

(g) Change in active employee group size;

(9) The actuary shall certify that in the actuary's opinion the assumptions used for the valuation produce results which, in the aggregate, are reasonable;

(10) A description of the actuarial funding method used in preparing the valuation including a description of the method used and period applied in amortizing unfunded actuarial accrued liabilities;

(11) The increase in the total contribution amount required to adequately fund the proposed change in benefits, expressed in annual dollars as determined by multiplying the increase in total contribution rate by the active employee annual payroll used for this valuation.

105.666. BOARD MEMBER EDUCATION PROGRAM REQUIRED, CURRICULUM — ANNUAL PENSION BENEFIT STATEMENT REQUIRED. — 1. Each plan shall, in conjunction with its staff and advisors, establish a board member education program, which shall be in effect on or after January 1, 2008. The curriculum shall include, at a minimum, education in the areas of duties and responsibilities of board members as trustees, ethics, governance process and procedures, pension plan design and administration of benefits, investments including but not limited to the fiduciary duties as defined under section 105.688, legal liability and risks associated with the administration of a plan, sunshine law

requirements under chapter 610, RSMo, actuarial principles and methods related to plan administration, and the role of staff and consultants in plan administration. Board members appointed or elected on a board on or after January 1, 2008, shall complete a board member education program designated to orient new board members in the areas described in this section within ninety days of becoming a new board member. Board members who have served one or more years shall attend at least two continuing education programs each year in the areas described in this section.

2. Each plan shall, upon the request of any individual participant, provide an annual pension benefit statement which shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to each participant or beneficiary. Such pension benefit statement shall include, but not be limited to, accrued participant contributions to the plan, total benefits accrued, date first eligible for a normal retirement benefit, and projected benefit at normal retirement. Any plan failing to do so shall submit in writing to the joint committee on public employee retirement as to why the information may not be provided as requested.

105.667. GAIN OR PROFIT FROM FUNDS OR TRANSACTIONS OF PLAN, PROHIBITED WHEN. — 1. Any appointing authority, board member, or employee shall be prohibited from receiving any gain or profit from any funds or transaction of the plan, except benefits from interest in investments common to all members of the plan, if entitled thereto.

2. Any appointing authority, board member, or employee accepting any political contribution, gratuity, or compensation for the purpose of influencing his or her action with respect to the investment of the funds of the system shall thereby forfeit his or her office and in addition thereto be subject to the penalties prescribed for bribery.

3. Any trustee, employee, or participant of a plan who pleads guilty to or is found guilty of a plan-related felony after August 28, 2007, that is determined by a court of law to have been directly committed in connection with the member's duties as either a trustee, employee, or participant of a plan shall not be eligible to receive any retirement benefits from the respective plan.

105.683. PLAN DEEMED DELINQUENT, WHEN, EFFECT OF. — Any plan, other than a plan created under sections 169.010 to 169.141, RSMo, or sections 169.600 to 169.715, RSMo, whose actuary determines that the plan has a funded ratio below sixty percent and the political subdivision has failed to make one hundred percent of the actuarially required contribution payment for five successive plan years with a descending funded ratio for five successive plan years after August 28, 2007, shall be deemed delinquent in the contribution payment and such delinquency in the contribution payment shall constitute a first lien on the funds of the political subdivision, and the board as defined under section 105.660 is authorized to compel payment by application for a writ of mandamus; and in addition, such delinquency in the contribution payment shall be certified by the board to the state treasurer and director of the department of revenue. Until such delinquency in the contribution payment, together with regular interest, is satisfied, the state treasurer and director of the department of revenue shall withhold twenty-five percent of the certified contribution deficiency from the total moneys due the political subdivision from the state.

105.684. BENEFIT INCREASES PROHIBITED, WHEN — AMORTIZATION OF UNFUNDED ACTUARIAL ACCRUED LIABILITIES — ACCELERATED CONTRIBUTION SCHEDULE REQUIRED, WHEN. — 1. Notwithstanding any law to the contrary, no plan shall adopt or implement any additional benefit increase, supplement, enhancement, lump sum benefit payments

to participants, or cost-of-living adjustment beyond current plan provisions in effect prior to August 28, 2007, unless the plan's actuary determines that the funded ratio prior to such adoption or implementation is at least eighty percent and will not be less than seventy-five percent after such adoption or implementation.

2. The unfunded actuarial accrued liabilities associated with benefit changes described in this section shall be amortized over a period not to exceed twenty years for purposes of determining the contributions associated with the adoption or implementation of any such benefit increase, supplement, or enhancement.

3. Any plan with a funded ratio below sixty percent shall have the actuary prepare an accelerated contribution schedule based on a descending amortization period for inclusion in the actuarial valuation.

4. Nothing in this section shall apply to any plan established under chapter 70, RSMo, or chapter 476, RSMo.

105.910. FUND ESTABLISHED — COMMISSION ESTABLISHED, SELECTION OF MEMBERS, QUALIFICATIONS, MEETINGS, WHEN HELD — TRANSFER OF ADMINISTRATION OF FUND. — 1. Sections 105.900 to **[**105.925**]** **105.927** shall provide for the establishment of the "Missouri State Public Employees Deferred Compensation Fund". This fund shall be administered by the Missouri state public employees deferred compensation commission. The commission shall approve any deferred compensation agreement entered into by the state **[**pursuant to**]** **under** sections 105.900 to **[**105.925**]** **105.927** and shall oversee the orderly administration of the fund in compliance with the subsequent provisions of sections 105.900 to **[**105.925**]** **105.927**.

2. Such commission shall have five commissioners, including one member of the Missouri state house of representatives to be selected by the speaker of the house, one member of the Missouri state senate to be selected by the president pro tempore of the senate, and three other such commissioners to be appointed by the governor of the state of Missouri by and with the advice and consent of the senate. The legislators appointed as commissioners shall serve during their terms of office in the general assembly. The commissioners appointed by the governor shall serve a term of three years; except that, of the commissioners first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years. The commission shall annually elect a chairman and shall be required to meet not less than quarterly or at any other such time as called by the chairman or a majority of the commission.

3. On August 28, 2007, the commission shall transfer administration of the fund to the board of trustees of the Missouri state employees' retirement system. Following such transfer:

(1) The board shall assume sole control over and shall be authorized to administer the fund beginning on the first day of the month following the month that the commission transfers administration to the board;

(2) The commission shall provide for the orderly transfer of all records pertaining to the fund, and shall take any other action necessary for the board to assume its duties under section 105.915; and

(3) The commission shall be dissolved upon such transfer.

105.915. BOARD TO ADMINISTER PLAN — WRITTEN AGREEMENT REQUIRED — IMMUNITY FROM LIABILITY, WHEN. — 1. **[**Subject to the approval of Missouri state public employees deferred compensation commission, the office of administration**]** **The board of trustees of the Missouri state employees' retirement system** shall **[**establish and**]** administer **[**a**]** **the** deferred compensation **[**plan**]** **fund** for the employees of the state of Missouri **that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers**

that it has under chapter 104, RSMo, to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred compensation commission immediately prior to the transfer made to the board under section 105.910 shall serve as ex officio members of the board solely to participate in the duties of administering the deferred compensation fund. One such commissioner serving as an ex officio board member shall be a member of the house of representatives selected by the speaker of the house of representatives, and such commissioner's service on the board shall cease on December 31, 2009. The other commissioner serving as an ex officio board member shall be the chairman of the deferred compensation commission immediately prior to the transfer made to the board under section 105.910, and such commissioner's service on the board shall cease December 31, 2008.

2. Participation in such plan shall be by a specific written agreement between **[**such**]** **state** employees and the state**,** which shall provide for the deferral of such **[**amount**]** **amounts** of compensation as requested by the employee **subject to any limitations imposed under federal law**. Participating employees must authorize that such deferrals be made from their wages for the purpose of participation in such program. **All assets and income of such fund shall be held in trust by the board for the exclusive benefit of participants and their beneficiaries. Assets of such trust may be pooled solely for investment management purposes with assets of the trust established under section 104.320, RSMo.**

[2**]** **3.** Notwithstanding any other provision of **[**this code**]** **sections 105.900 to 105.927**, funds held for the state by the **[**Missouri public employees deferred compensation commission pursuant to**]** **board in accordance with** written deferred compensation **[**agreement**]** **agreements** between the state and participating employees may be invested**[**,**]** in such investments as are deemed appropriate by the **[**office of administration and approved by the commission, including, but not limited to, life insurance or annuity contracts or mutual funds**]** **board**. **[**It is further provided that all such insurance, annuities, mutual funds, or other such investment products to be offered pursuant to this plan shall have been reviewed and selected by the commission based on a competitive bidding process as established by such specifications and considerations as are deemed appropriate by the commission. Such investments shall not be construed to be a prohibited use of the general assets of the state**]** **All administrative costs of the program described in this section, including staffing and overhead expenses, may be paid out of assets of the fund, which may reduce the amount due participants in the fund. Such investments shall not be construed to be a prohibited use of the general assets of the state.**

[3**]** **4.** **[**In no case shall such investment be offered by other than such persons and companies authorized and duly licensed by the state of Missouri and applicable federal regulatory agencies to offer such insurance or investment programs in compliance with all relevant provisions of this code.**]** **Investments offered under the deferred compensation fund for the employees of the state of Missouri shall be made available at the discretion of the board.**

5. The board and employees of the Missouri state employees' retirement system shall be immune from suit and shall not be subject to any claim or liability associated with any administrative actions or decisions made by the commission with regard to the deferred compensation program prior to the transfer made to the board under section 105.910.

6. The board and employees of the system shall not be liable for the investment decisions made or not made by participating employees as long as the board acts with the same skill, prudence, and diligence in the selection and monitoring of providers of investment products, education, advice, or any default investment option, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.

7. The system shall be immune from suit and shall not be subject to any claim or liability associated with the administration of the deferred compensation fund by the board and employees of the system.

169.010. DEFINITIONS. — The following words and phrases, as used in sections 169.010 to 169.130, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" shall mean the sum of the annual contributions a member has made to the retirement system through deductions from the member's salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;

(2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;

(3) "Creditable service" shall mean prior service or membership service, or the sum of the two, if the member has both to the member's credit;

(4) "District" shall mean public school, as herein defined;

(5) "Employ" shall have a meaning agreeable with that herein given to employer and employee;

(6) "Employee" shall be synonymous with the term "teacher" as the same is herein defined;

(7) "Employer" shall mean the district that makes payment directly to the teacher or employee for such person's services;

(8) "Final average salary" shall mean the total compensation payable to a member for any three consecutive years of creditable service, as elected by the member, divided by thirty-six; with the proviso that any annual compensation entering into the total compensation shall not exceed twelve thousand six hundred dollars for any year prior to July 1, 1967; and with the proviso that the board may set a maximum percentage of increase in annual compensation from one year to the next in the final average salary period**. In no instance shall the maximum percentage of increase in annual compensation from one year to the next in the final average salary period exceed ten percent. This limit will not apply to increases due to bonafide changes in position or employer increases required by state statute, or district wide salary schedule adjustments for previously unrecognized education related services**;

(9) "Member" shall mean a person who holds membership in the retirement system;

(10) "Membership service" shall mean service rendered by a member of the retirement system after the system becomes operative, and may include a period of service in the armed forces of the United States as provided for in section 169.055;

(11) "Prior service" shall mean service rendered by a member of the retirement system before the system becomes operative, and may include service rendered by a member of the armed forces if the member was a teacher at the time the member was inducted, for which credit has been approved by the board of trustees;

(12) "Public school" shall mean any school conducted within the state under the authority and supervision of a duly elected district or city or town board of directors or board of education and the board of regents of the several state teachers' colleges, or state colleges, board of trustees of the public school retirement system of Missouri, and also the state of Missouri and each county thereof, to the extent that the state and the several counties are employers of teachers as herein designated;

(13) "Retirement allowance" shall mean a monthly payment for life during retirement;

(14) "Retirement system" or "system" shall mean the public school retirement system of Missouri created by sections 169.010 to 169.130;

(15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration, including any payments made pursuant to sections 168.500 to 168.515, RSMo, which is earned by a member as an employee of a district, but not including employer-paid fringe benefits except

the value of employer-paid medical benefits (including dental and vision) for members, and not including employer-paid medical benefits (including dental and vision) for anyone other than the member, employer contributions to any deferred compensation plan, consideration for agreeing to terminate employment or other nonrecurring or unusual payments that are not a part of regular remuneration. The board by its rules may further define salary, salary rate and compensation in a manner consistent with this definition and with sections 169.010 to 169.141;

(16) "School year" shall mean the year from July first of one year to June thirtieth of next year, inclusive, which shall also be the fiscal year of the system;

(17) "Teacher" shall mean any person who shall be employed by any public school, on a full-time basis and who shall be duly certificated under the law governing the certification of teachers; any person employed in the state department of elementary and secondary education or by the state board of education on a full-time basis who shall be duly certificated under the law governing the certification of teachers and who did not become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo; and persons employed by the board of trustees of the public school retirement system of Missouri on a full-time basis who shall be duly certified under the law governing the certification of teachers. The term "teacher" shall be synonymous with the term "employee" as defined in this section.

169.070. RETIREMENT ALLOWANCES, HOW COMPUTED, ELECTION ALLOWED, TIME PERIOD — OPTIONS — EFFECT OF FEDERAL O.A.S.I. COVERAGE — COST-OF-LIVING ADJUSTMENT AUTHORIZED — LIMITATION OF BENEFITS — EMPLOYMENT OF SPECIAL CONSULTANT, COMPENSATION, MINIMUM BENEFITS. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, **[**2008**]** **2013**, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable

service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and July 1, **[**2008**]** **2013**, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

2. In lieu of the retirement allowance provided in subsection 1 of this section, a member whose age is sixty years or more on September 28, 1975, may elect to have the member's retirement allowance calculated as a sum of the following items:

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years;

(3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection for each month of attained age in excess of sixty years but not in excess of age sixty-five.

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the estate of the member in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the

amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each year of employment in a position covered by this system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except that if the member has at least thirty years of creditable service at retirement the member shall receive the benefit payable pursuant to that section as though the member's age were sixty-five at retirement;

(4) For years of membership service after July 1, 1961, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

10. The monetary benefits for each other member for whom federal Old Age and Survivors Insurance tax is or was paid at any time from state or local funds on account of the member's employment entitling the member to membership in the system shall be the sum of:

(1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for years of membership service;

(2) For years of membership service after July 1, 1946, in which the full contribution rate was paid, full benefits under the formula in effect at the time of the member's retirement;

(3) For years of membership service after July 1, 1957, in which the two-thirds contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of the member's retirement.

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code

except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

(1) Thirty or more years of service, one thousand two hundred dollars;

(2) At least twenty-five years but less than thirty years, one thousand dollars;

(3) At least twenty years but less than twenty-five years, eight hundred dollars;

(4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

19. Any member who has retired prior to July 1, 1998, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive a payment equivalent to eight and seven-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

20. Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the retired member, in that order of precedence, shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.

22. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a payment equivalent to three and five-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

169.466. ANNUAL PENSION INCREASE, WHEN. — 1. Any retired member with fifteen or more years of creditable service at retirement receiving **[**a pension**]** **retirement benefits** on August 28, 1997, shall receive on January first of each year, commencing on January 1, 1998, an increase in the amount of **[**pension**]** **benefits** received by the retired member pursuant to sections 169.410 to 169.540 during the preceding year of one hundred percent of the increase in the consumer price index calculated in the manner provided in this section; except that, no such increase in **[**pension**]** **retirement** benefits shall be paid for any year if such increase in the consumer price index is less than one percent. Such annual **[**pension**]** **retirement benefit** increase, however, shall not exceed three percent **[**and the total increases in the amount of pension benefits received by any retired member shall not, in the aggregate, exceed ten percent of the pension benefits such retired member received during the year preceding January first of the first year the retired member is entitled to receive an increase pursuant to this section**]**. A retired member qualified to receive an annual **[**pension**]** **retirement benefit** increase pursuant to this section shall not be eligible to receive an additional benefit until the January first after the first anniversary of the date on which he or she commenced receiving **[**a pension**]** **retirement benefits** pursuant to sections 169.410 to 169.540. Benefits shall not be decreased in the case of a decrease in the consumer price index for any year.

2. For the purpose of this section, any increase in the consumer price index shall be determined by the board of trustees in November of each year based on the consumer price

index for the twelve-month period ended on September thirtieth of such year over the consumer price index for the twelve-month period ended on September thirtieth of the year immediately prior thereto. Any increase so determined shall be applied by the board of trustees in calculating increases in **[**pension**]** **retirement** benefits that become payable pursuant to this section for the twelve-month period beginning on the January first immediately following such determination.

3. An annual increase in **[**pension**]** **retirement** benefits, if any, shall be payable monthly with monthly installments of other **[**pension**]** **retirement** benefits pursuant to sections 169.410 to 169.540.

169.471. BOARD OF EDUCATION AUTHORIZED TO INCREASE RETIREMENT BENEFITS, ADOPT AND IMPLEMENT ADDITIONAL PLANS. — 1. The board of education is authorized from time to time, in its discretion, to increase the **[**pension**]** **retirement** benefits now or hereafter provided pursuant to sections 169.410 to 169.540 and to adopt and implement additional **[**pension**]** **retirement** benefits and plans, including without limitation, early retirement plans, deferred retirement option plans and cost-of-living adjustments, but excluding compensation to retired members pursuant to section 169.475, and for such purpose the contribution rate of members of the retirement system may be increased to provide part of the cost thereof, subject to the following conditions:

(1) Any such increase in **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans shall be approved by the board of trustees;

(2) The board of trustees shall have presented to the board of education the projected increases in rates of contribution which will be required to be made by members and the board of education to the retirement system to pay the cost of such increases in **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans; and

(3) Any increase in the contribution rate of members of the retirement system shall be approved by the board of trustees and shall be deducted from the compensation of each member by the employing board and transferred and credited to the individual account of each member from whose compensation the deduction was made, and shall be administered in accordance with sections 169.410 to 169.540; provided that, any such increase in the members' contribution rate shall not exceed one-half of one percent of compensation in any year for such increases to **[**pension**]** **retirement** benefits and additional **[**pension**]** **retirement** benefits and plans adopted during such year by the board of education pursuant to this section, and all such increases in the members' contribution rate shall, in the aggregate, not exceed two percent of compensation.

2. The board of trustees is authorized from time to time, in its discretion, to increase the retirement benefits, now or hereinafter provided under sections 169.410 to 169.540, and to adopt and implement additional retirement benefits for persons who have retired, including cost-of-living adjustments, provided that the board of trustees finds the additional benefit will not require an increase in the contribution rate required by the members, will not increase the contribution required from the board of education, and is actuarially sound. In the event the board of trustees authorizes an increase under this section, it shall certify in writing to the board of education the findings, including but not limited to all actuarial assumptions, upon which the board of trustees determined that the increase in benefits would result in no increase in contributions by members or the board of education.

169.670. BENEFITS, HOW COMPUTED — BENEFICIARY BENEFITS, OPTIONS, ELECTION OF. — 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, **[**2008**]** **2013**, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time

of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level

retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section.

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement or disability allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) person's estate in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by

the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

211.393. DEFINITIONS — COMPENSATION OF JUVENILE OFFICERS, APPORTIONMENT — STATE TO REIMBURSE SALARIES, WHEN — MULTICOUNTY CIRCUIT PROVISIONS — LOCAL JUVENILE COURT BUDGET, AMOUNT MAINTAINED, WHEN — EXCLUSION FROM BENEFITS, WHEN. — 1. For purposes of this section, the following words and phrases mean:

(1) "County retirement plan", any public employees' defined benefit retirement plan established by law that provides retirement benefits to county or city employees, but not to include the county employees' retirement system as provided in sections 50.1000 to 50.1200, RSMo;

(2) "Juvenile court employee", any person who is employed by a juvenile court in a position normally requiring one thousand hours or more of service per year **[**but not including any service in such a position that was financed in whole or in part by a public or private grant on or after July 1, 1999**]**;

(3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;

(4) "Multicounty circuit", all other judicial circuits not included in the definition of a single county circuit;

(5) "Single county circuit", a judicial circuit composed of a single county of the first classification, including the circuit for the city of St. Louis;

(6) "State retirement plan", the public employees' retirement plan administered by the Missouri state employees' retirement system pursuant to chapter 104, RSMo.

2. Juvenile court employees employed in a single county circuit shall be subject to the following provisions:

(1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:

(a) Be state employees on that portion of their salary received from the state pursuant to section 211.381, and in addition be county employees on that portion of their salary provided by the county at a rate determined pursuant to section 50.640, RSMo;

(b) Receive state-provided benefits, including retirement benefits from the state retirement plan, on that portion of their salary paid by the state and may participate as members in a county retirement plan on that portion of their salary provided by the county except any juvenile officer whose service as a juvenile court officer is being credited based on all salary received from any source in a county retirement plan on June 30, 1999, shall not be eligible to receive state-provided benefits, including retirement benefits, or any creditable prior service as described in this section but shall continue to participate in such county retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee **prior to July 1, 1999**, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service, if such service was rendered in a **[**judicial circuit that was not a single county of the first classification**]** **single county circuit or a multicounty circuit; except that if the juvenile officer forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive service under this paragraph**;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect to forfeit their creditable service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the

forfeited creditable service, determined as if the person were going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee **in a multicounty circuit** in a position that was financed in whole or in part by a public or private grant **[**prior to July 1, 1999**]**, pursuant to the provisions of paragraph (e) of subdivision (1) of subsection 3 of this section;

(2) Juvenile officers who begin employment for the first time as a juvenile officer in a single county circuit on or after July 1, 1999, shall:

(a) Be county employees and receive salary from the county at a rate determined pursuant to section 50.640, RSMo, subject to reimbursement by the state as provided in section 211.381; and

(b) Participate as members in the applicable county retirement plan subject to reimbursement by the state for the retirement contribution due on that portion of salary reimbursed by the state;

(3) All other juvenile court employees who are employed in a single county circuit on or after July 1, 1999:

(a) Shall be county employees and receive a salary from the county at a rate determined pursuant to section 50.640, RSMo; and

(b) Shall, in accordance with their status as county employees, receive other county-provided benefits including retirement benefits from the applicable county retirement plan if such employees otherwise meet the eligibility requirements for such benefits;

(4) (a) The state shall reimburse each county comprised of a single county circuit for an amount equal to the greater of:

a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement, health and other fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(b) The state may reimburse a single county circuit up to fifty percent of such circuit's total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state may reimburse, subject to appropriations, the following percentages of such circuits' total juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any reimbursement from the state in an amount less than the greater of:

a. Twenty-five percent of the total juvenile court personnel budget of the single county circuit expended for calendar year 1997, excluding fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(5) Each single county circuit shall file a copy of its initial 1997 and each succeeding year's budget with the office of the state courts administrator after January first each year and prior to reimbursement. The office of the state courts administrator shall make payment for the reimbursement from appropriations made for that purpose on or before July fifteenth of each year following the calendar year in which the expenses were made. The office of the state courts administrator shall submit the information from the budgets relating to full-time juvenile court personnel from each county to the general assembly;

(6) Any single county circuit may apply to the office of the state courts administrator to become subject to subsection 3 of this section, and such application shall be approved subject to appropriation of funds for that purpose;

(7) The state auditor may audit any single county circuit to verify compliance with the requirements of this section, including an audit of the 1997 budget.

3. Juvenile court employees in multicounty circuits shall be subject to the following provisions:

(1) Juvenile court employees including detention personnel hired in 1998 in those multicounty circuits who began actual construction on detention facilities in 1996, employed in a multicounty circuit on or after July 1, 1999, shall:

(a) **Not** be state employees **[**and**]** **unless they** receive all salary from the state, which shall include any salary as provided in section 211.381 in addition to any salary provided by the applicable county or counties during calendar year 1997 and any general salary increase approved by the state of Missouri for fiscal year 1999 and fiscal year 2000;

(b) Participate in the state retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee **prior to July 1, 1999**, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service if such service was rendered in a **[**judicial circuit that was not a single county of the first classification**]** **single county circuit or a multicounty circuit**, except that if they forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive creditable service under this paragraph;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect within six months from the date they become participants in the state retirement plan pursuant to this section to forfeit their service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee **in a multicounty circuit** in a position that was financed in whole or in part by a public or private grant **[**prior to July 1, 1999**]** **to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service except that if they**:

a. **Forfeited such credit in such county retirement plan prior to being eligible to receive creditable service under this paragraph, they may receive creditable service under paragraph (e) of this subdivision;**

b. [Pursuant to paragraph (c) of this subdivision, except that if they already**]** Received credit for such creditable service in a county retirement plan, they may not receive creditable prior service pursuant to paragraph **[**(c)**]** **(e)** of this subdivision unless they elect to forfeit their service from such plan, in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

[b. Pursuant to subparagraph a. of this paragraph, if they**]** **c.** Terminated employment prior to August 28, **[**2004**]** **2007**, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement **they may receive creditable service under paragraph (e) of this subdivision**;

[c. Pursuant to subparagraph a. of this paragraph, if they**]** **d.** Retired prior to August 28, **[**2004**]** **2007**, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement, **[**in which case**]** they shall have their retirement benefits adjusted so they receive retirement benefits

equal to the amount they would have received had their retirement benefit been initially calculated to include such creditable prior service; **or**

[d. Pursuant to subparagraph a. of this paragraph, if they**] e.** Purchased creditable prior service pursuant to section 104.344, RSMo, or section 105.691, RSMo, based on service as a juvenile court employee in a position that was financed in whole or in part by a public or private grant **[**prior to July 1, 1999**], [**in which case**]** they shall receive a refund based on the amount paid for such purchased service;

(2) Juvenile court employee positions added after December 31, 1997, shall be terminated and not subject to the provisions of subdivision (1) of this subsection, unless the office of the state courts administrator requests and receives an appropriation specifically for such positions;

(3) The salary of any juvenile court employee who becomes a state employee, effective July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set in accordance with guidelines established by the state pursuant to a salary survey conducted by the office of the state courts administrator, but such salary shall in no event be less than the amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled to additional compensation paid by a county as a public officer or employee. Such employees shall be considered employees of the judicial branch of state government for all purposes;

(4) All other employees of a multicounty circuit who are not juvenile court employees as defined in subsection 1 of this section shall be county employees subject to the county's own terms and conditions of employment.

4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1) of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section is contingent upon the office of the state courts administrator providing the state retirement plan information, in a form subject to verification and acceptable to the state retirement plan, indicating the dates of service and amount of monthly salary paid to each juvenile court employee for such creditable prior service.

5. No juvenile court employee employed by any single or multicounty circuit shall be eligible to participate in the county employees' retirement system fund pursuant to sections 50.1000 to 50.1200, RSMo.

6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as "maintenance of effort funding", not less than the total amount budgeted for all employees of the juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640, RSMo.

7. Any person who is employed on or after July 1, 1999, in a position covered by the state retirement plan or the transportation department and highway patrol retirement system and who has rendered service as a juvenile court employee in a judicial circuit that was not a single county of the first classification shall be eligible to receive creditable prior service in such plan or system

as provided in subsections 2 and 3 of this section. For purposes of this subsection, the provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state retirement plan shall also apply to the transportation department and highway patrol retirement system.

8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided by this section unless such juvenile officer elects to:

(a) Receive retirement benefits from the state retirement plan based on all years of service as a juvenile officer and a final average salary which shall include salary paid by the county and the state; and

(b) Forfeit any county retirement benefits from any county retirement plan based on service rendered as a juvenile officer.

(2) Upon making the election described in this subsection, the county retirement plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions.

9. The elections described in this section shall be made on forms developed and made available by the state retirement plan.

321.800. RETIREMENT PLAN, BOARD MAY ESTABLISH. — Notwithstanding any other law to the contrary, any board of directors established under the provisions of this chapter administering its own retirement or other benefits-related plan shall administer such plan by a separate five-member pension board of trustees. Pension plan participants shall elect three such participants to be submitted to the board of directors. The board of directors shall select two of the three participants to serve on the five-member pension board of trustees. The board of directors shall be the other three members of the five-member pension board of trustees.

[105.920. LIABILITY OF STATE OR POLITICAL SUBDIVISION, LIMIT OF. — The financial liability of the state, or political subdivision under a deferred compensation program shall be limited in each instance to the value of the particular fixed or variable life insurance or annuity contract, mutual funds or other such investment options purchased on behalf of any employee.**]**

Approved July 13, 2007

SB 407 [SB 407]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows public water supply districts to enter into contracts with other water districts and municipalities to supply water

AN ACT to repeal section 247.050, RSMo, and to enact in lieu thereof one new section relating to public water supply districts.

SECTION
A. Enacting clause.
247.050. Powers of public water supply districts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 247.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.050, to read as follows:

247.050. POWERS OF PUBLIC WATER SUPPLY DISTRICTS. — The following powers are hereby conferred upon public water supply districts organized under the provisions of sections 247.010 to 247.220:

(1) To sue and be sued;

(2) To purchase or otherwise acquire water for the necessities of the district;

(3) To accept by gift any funds or property for the uses and purposes of the district;

(4) To dispose of property belonging to the district, under the conditions expressed in sections 247.010 to 247.220;

(5) To build, acquire by purchase or otherwise, enlarge, improve, extend and maintain a system of waterworks, including fire hydrants;

(6) To contract and be contracted with;

(7) To condemn private property within or without the district, needed for the uses and purposes in sections 247.010 to 247.220 provided for;

(8) To lease, acquire and own any and all property, equipment and supplies needed within or without the district in the successful operation of a waterworks system;

(9) To contract indebtedness and issue general or special obligation bonds, or both, of the district therefor, as herein provided;

(10) To acquire by purchase or otherwise, a system of waterworks, and to build, enlarge, improve, extend and equip such system for the uses and purposes of the district;

(11) To certify to the county commission or county commissions of the county or counties within which such district is situate, the amount or amounts to be provided by the levy of a tax upon all taxable property within the district to create an interest and sinking fund for the payment of general obligation bonds of the district and the interest thereon; and also

(12) To create an incidental fund to take care of all costs and expenses incurred in incorporating the district, and all obligations contracted prior thereto and connected therewith; and

(13) To purchase equipment and supplies needed in the operation of the water system of the district; provided, however, that the power to create an incidental fund by the levy of a general property tax shall cease after two annual levies therefor shall have been made, and such levy shall not exceed fifteen cents per annum on each one hundred dollars assessed valuation of taxable property within the district;

(14) To provide for the collection of taxes and rates or charges for water and water service;

(15) To sell and distribute water to the inhabitants of the district and to consumers outside the district, delivered within or at the boundaries of the district; **to contract with another water district or a municipality to sell water within such water district or municipality according to the terms and provisions of such contract; to contract with another water district or municipality for such water district or municipality to sell water within the district according to the terms and provisions of such contract;**

(16) To fix rates for the sale of water; and

(17) To make general rules and regulations in relation to the management of the affairs of the district.

Approved May 31, 2007

SB 416 [CCS HCS SB 416]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits lands held by certain electric cooperatives and corporations from being adversely possessed

AN ACT to repeal sections 247.172, 394.312, and 516.090, RSMo, and to enact in lieu thereof three new sections relating to actions involving certain lands.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 247.172, 394.312, and 516.090, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 247.172, 394.312, and 516.090, to read as follows:

247.172. WRITTEN TERRITORIAL AGREEMENTS FOR SALE AND DISTRIBUTION OF WATER — COMMISSION MAY DESIGNATE BOUNDARIES — APPROVAL OF COMMISSION, HEARINGS — RIGHTS OF SUPPLIERS NOT A PARTY TO AGREEMENT — COMPLAINTS, HEARINGS, AUTHORITY OF COMMISSION — FEES. — 1. Competition to sell and distribute water, as between and among public water supply districts, water corporations subject to public service commission jurisdiction, and municipally owned utilities may be displaced by written territorial agreements, but only to the extent hereinafter provided for in this section.

2. Such territorial agreements shall specifically designate the boundaries of the water service area of each water supplier subject to the agreement, any and all powers granted to a public water supply district by a municipality, pursuant to the agreement, to operate within the corporate boundaries of that municipality, notwithstanding the provisions of sections 247.010 to 247.670 to the contrary, and any and all powers granted to a municipally owned utility, pursuant to the agreement, to operate in areas beyond the corporate municipal boundaries of its municipality.

3. Where the parties cannot agree **upon the boundaries of the water service areas that are to be set forth in the agreement**, they may, by mutual consent of all parties involved, petition the public service commission to designate the boundaries of the water service areas to be served by each party and such designations by the commission shall be binding on all such parties. Petitions shall be made pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity and the commission shall **[**be required to**]** hold evidentiary hearings on all petitions so received **as required in subsection 5 of this section**. The commission shall base its final determination **regarding such petitions** upon a finding that the commission's designation of water service areas is in the public interest.

[3.**]** **4.** Before becoming effective, all territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligations of any party to an agreement, shall receive the approval of the public service commission by report and order. Applications for

commission approval shall be made and notice of such filing shall be given to other water suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity. Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than one hundred twenty days after the application is properly filed with the secretary of the commission.

[4.**]** **5.** The commission shall hold evidentiary hearings to determine whether such territorial agreements should be approved or disapproved**, except that in those instances where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties, such hearings may be waived by agreement of the parties**. The commission may approve the application if it **[**shall after hearing determine**]** **determines** that approval of the territorial agreement in total is not detrimental to the public interest. Review of commission decisions under this section shall be governed by the provisions of sections 386.500 to 386.550, RSMo.

[5.**]** **6.** Commission approval of any territorial agreement entered into under the provisions of this section shall in no way affect or diminish the rights and duties of any water supplier not a party to the agreement to provide service within the boundaries designated in such territorial agreement. In the event any water corporation which is not a party to the territorial agreement and which is subject to the jurisdiction, control and regulation of the commission under chapters 386, RSMo, and 393, RSMo, has sought or hereafter seeks authorization from the commission to sell and distribute water or construct, operate and maintain water supply facilities within the boundaries designated in any such territorial agreement, the commission, in making its determination regarding such requested authority, shall give no consideration or weight to the existence of any such territorial agreement and any actual rendition of retail water supply services by any of the parties to such territorial agreement will not preclude the commission from granting the requested authority.

[6.**]** **7.** The commission shall have jurisdiction to entertain and hear complaints involving any commission-approved territorial agreement. Such complaints shall be brought and prosecuted in the same manner as other complaints before the commission. **[**After hearing, if**]** **The commission shall hold an evidentiary hearing regarding such complaints, except that in those instances where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties, such hearings may be waived by agreement of the parties. If** the commission determines that **[**the**]** **a** territorial agreement **[**is not**]** **that is the subject of a complaint is no longer** in the public interest, it shall have the authority to suspend or revoke the territorial agreement. If the commission determines that the territorial agreement is still in the public interest, such territorial agreement shall remain in full force and effect. Except as provided in this section, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting, or management of any public water supply district or municipally owned utility, or to amend, modify, or otherwise limit the rights of public water supply districts to provide service as otherwise provided by law.

[7.**]** **8.** Notwithstanding the provisions of section 386.410, RSMo, the commission shall by rule set a schedule of fees based upon its costs in reviewing proposed territorial agreements for approval or disapproval. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case. The fees shall be paid to the director of revenue who shall remit such payments to the state treasurer. The state treasurer shall credit such payments to the public service commission fund, or its successor fund, as established in section 33.571, RSMo. Nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any public water supply district or municipally owned utility and except as provided in this section,

nothing shall affect the rights, privileges or duties of public water supply districts, water corporations subject to public service commission jurisdiction or municipally owned utilities.

9. Notwithstanding any other provisions of this section, the commission may hold a hearing regarding any application, complaint or petition filed under this section upon its own motion.

394.312. TERRITORIAL AGREEMENTS AUTHORIZED, PROCEDURE — PUBLIC SERVICE COMMISSION, DUTIES, FEES MAY BE SET. — 1. Competition to provide retail electric service, as between rural electric cooperatives, electrical corporations and municipally owned utilities may be displaced by written territorial agreements, but only to the extent hereinafter provided for in this section.

2. Such territorial agreements shall specifically designate the boundaries of the electric service area of each electric service supplier subject to the agreement, any and all powers granted to a rural electric cooperative by a municipality, pursuant to the agreement, to operate within the corporate boundaries of that municipality, notwithstanding the provisions of section 394.020 and of section 394.080 to the contrary, and any and all powers granted to a municipally owned utility, pursuant to the agreement, to operate in areas beyond the corporate municipal boundaries of its municipality.

3. Where the parties cannot agree **upon the boundaries of the electric service areas that are to be set forth in the agreement**, they may, by mutual consent of all parties involved, petition the public service commission to designate the boundaries of the electric service areas to be served by each party and such designations by the commission shall be binding on all such parties. Petitions shall be made pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity and the commission shall **[**be required to**]** hold evidentiary hearings on all petitions so received **as required in subsection 5 of this section**. The commission shall base its final determination **regarding such petitions** upon a finding that the commission's designation of electric service areas is in the public interest.

[3.**]** **4.** The provisions of sections 386.310, RSMo, and 393.106, RSMo, and sections 394.160 and 394.315 to the contrary notwithstanding, before becoming effective, all territorial agreements entered into under the provisions of this section, including any subsequent amendments to such agreements, or the transfer or assignment of the agreement or any rights or obligations of any party to an agreement, shall receive the approval of the public service commission by report and order. Applications for commission approval shall be made and notice of such filing shall be given to other electrical suppliers pursuant to the rules and regulations of the commission governing applications for certificates of public convenience and necessity. Unless otherwise ordered by the commission for good cause shown, the commission shall rule on such applications not later than one hundred twenty days after the application is properly filed with the secretary of the commission.

[4.**]** **5.** The commission shall hold evidentiary hearings to determine whether such territorial agreements should be approved or disapproved**, except that in those instances where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties such hearings may be waived by agreement of the parties**. The commission may approve the application if it **[**shall after hearing determine**]** **determines** that approval of the territorial agreement in total is not detrimental to the public interest. Review of commission decisions under this section shall be governed by the provisions of sections 386.500 to 386.550, RSMo.

[5.**]** **6.** Commission approval of any territorial agreement entered into under the provisions of this section shall in no way affect or diminish the rights and duties of any supplier not a party to the agreement or of any electrical corporation authorized by law to provide service within the

boundaries designated in such territorial agreement. In the event any electrical corporation which is not a party to the territorial agreement and which is subject to the jurisdiction, control and regulation of the commission under chapters 386, RSMo, and 393, RSMo, has heretofore sought or hereafter seeks authorization from the commission to render electric service or construct, operate and maintain electric facilities within the boundaries designated in any such territorial agreement, the commission, in making its determination regarding such requested authority, shall give no consideration or weight to the existence of any such territorial agreement and any actual rendition of retail electric service by any of the parties to such territorial agreement will not preclude the commission from granting the requested authority.

[6.**]** **7.** The commission shall have jurisdiction to entertain and hear complaints involving any commission-approved territorial agreement. Such complaints shall be brought and prosecuted in the same manner as other complaints before the commission. **[**After hearing, if**]** **The commission shall hold an evidentiary hearing regarding such complaints, except that in those instances where the matter is resolved by a stipulation and agreement submitted to the commission by all the parties, such hearings may be waived by agreement of the parties. If** the commission determines that **[**the**]** **a** territorial agreement **[**is not**]** **that is the subject of a complaint is no longer** in the public interest, it shall have the authority to suspend or revoke the territorial agreement. If the commission determines that the territorial agreement is still in the public interest, such territorial agreement shall remain in full force and effect. Except as provided in this section, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting, or management of any rural electric cooperative or municipally owned utility, or to amend, modify, or otherwise limit the rights of electrical suppliers to provide service as otherwise provided by law.

[7.**]** **8.** Notwithstanding the provisions of section 386.410, RSMo, the commission shall by rule set a schedule of fees based upon its costs in reviewing proposed territorial agreements for approval or disapproval. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case. The fees shall be paid to the director of revenue who shall remit such payments to the state treasurer. The state treasurer shall credit such payments to the public service commission fund, or its successor fund, as established in section 33.571, RSMo. Nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any rural electric cooperative or municipally owned utility and except as provided in this section nothing shall affect the rights, privileges or duties of rural electric cooperatives, electrical corporations or municipally owned utilities.

9. Notwithstanding any other provisions of this section, the commission may hold a hearing regarding any application, complaint or petition filed under this section upon its own motion.

516.090. STATUTE NOT TO EXTEND TO CERTAIN LANDS. — Nothing contained in any statute of limitation shall extend to any lands given, granted, sequestered**,** or appropriated to any public, pious**,** or charitable use, or to any lands belonging to this state. This section shall be construed to prohibit any judgment granting adverse possession to a claimant where the defendant possesses an interest in land described in a recorded deed and is a public utility as defined in section 386.020, RSMo**, or is a rural electric cooperative as defined in chapter 394, RSMo, or is an organization operating under section 394.200, RSMo**.

Approved June 30, 2007

SB 418 [SCS SB 418]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the monthly personal needs payment under the Supplemental Nursing Care Program

AN ACT to repeal section 208.030, RSMo, and to enact in lieu thereof one new section relating to the supplemental nursing care program.

SECTION

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 208.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.030, to read as follows:

208.030. SUPPLEMENTAL WELFARE ASSISTANCE, ELIGIBILITY FOR — AMOUNT, HOW DETERMINED — REDUCTION OF SUPPLEMENTAL PAYMENT PROHIBITED, WHEN. — 1. The division of family services shall make monthly payments to each person who was a recipient of old age assistance, aid to the permanently and totally disabled, and aid to the blind and who:

(1) Received such assistance payments from the state of Missouri for the month of December, 1973, to which they were legally entitled; and

(2) Is a resident of Missouri.

2. The amount of supplemental payment made to persons who meet the eligibility requirements for and receive federal supplemental security income payments shall be in an amount, as established by rule and regulation of the division of family services, sufficient to, when added to all other income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payments, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any benefits or income required to be disregarded by an act of Congress of the United States or any regulation duly promulgated thereunder. As long as the recipient continues to receive a supplemental security income payment, the supplemental payment shall not be reduced. The minimum supplemental payment for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be in an amount which, when added to the federal supplemental security income payment, equals the amount of the blind pension grant as provided for in chapter 209, RSMo.

3. The amount of supplemental payment made to persons who do not meet the eligibility requirements for federal supplemental security income benefits, but who do meet the December, 1973, eligibility standards for old age assistance, permanent and total disability and aid to the blind or less restrictive requirements as established by rule or regulation of the division of family services, shall be in an amount established by rule and regulation of the division of family services sufficient to, when added to all other income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payment, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any other benefits or income required to be disregarded by an act of Congress of the United States or any regulation duly promulgated thereunder. The minimum supplemental

payments for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be a blind pension payment as prescribed in chapter 209, RSMo.

4. The division of family services shall make monthly payments to persons meeting the eligibility standards for the aid to the blind program in effect December 31, 1973, who are bona fide residents of the state of Missouri. The payment shall be in the amount prescribed in subsection 1 of section 209.040, RSMo, less any federal supplemental security income payment.

5. The division of family services shall make monthly payments to persons age twenty-one or over who meet the eligibility requirements in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the division of family services, who were receiving old age assistance, permanent and total disability assistance, general relief assistance, or aid to the blind assistance lawfully, who are not eligible for nursing home care under the Title XIX program, and who reside in a licensed residential care facility, a licensed assisted living facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri and whose total cash income is not sufficient to pay the amount charged by the facility; and to all applicants age twenty-one or over who are not eligible for nursing home care under the Title XIX program who are residing in a licensed residential care facility, a licensed assisted living facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri, who make application after December 31, 1973, provided they meet the eligibility standards for old age assistance, permanent and total disability assistance, general relief assistance, or aid to the blind assistance in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the division of family services, who are bona fide residents of the state of Missouri, and whose total cash income is not sufficient to pay the amount charged by the facility. Until July 1, 1983, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred twenty dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred twenty-five dollars monthly. Beginning July 1, 1983, for fiscal year 1983-1984 and each year thereafter, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred fifty-six dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred ninety dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred ninety-two dollars and fifty cents monthly. No intermediate care or skilled nursing payment shall be made to a person residing in a licensed intermediate care facility or in a licensed skilled nursing facility unless such person has been determined, by his own physician or doctor, to medically need such services subject to review and approval by the department. Residential care payments may be made to persons residing in licensed intermediate care facilities or licensed skilled nursing facilities. Any person eligible to receive a monthly payment pursuant to this subsection shall receive an additional monthly payment **[**of not more than twenty-five dollars**]** **equal to the Medicaid vendor nursing facility personal needs allowance**. The exact amount of the additional payment shall be determined by rule of the department. This additional payment shall not be used to pay for any supplies or services, or for any other items that would have been paid for by the division of family services if that person would have been receiving medical assistance benefits under Title XIX of the federal Social Security Act for nursing home services pursuant to the provisions of section 208.159. Notwithstanding the previous part of this subsection, the person eligible shall not receive this additional payment if such eligible person is receiving funds for personal expenses from some other state or federal program.

Approved June 30, 2007

SB 420 [SCS SB 420]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that no more than four, rather than three, members of the Clean Water Commission may be from the same political party

AN ACT to repeal section 644.021, RSMo, and to enact in lieu thereof one new section relating to membership on the clean water commission.

SECTION
A. Enacting clause.
644.021. Commission created, members, qualifications, term — meetings.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 644.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 644.021, to read as follows:

644.021. COMMISSION CREATED, MEMBERS, QUALIFICATIONS, TERM — MEETINGS. — 1. There is hereby created a water contaminant control agency to be known as the "Clean Water Commission of the State of Missouri", whose domicile for the purposes of sections 644.006 to 644.141 shall be deemed to be that of the department of natural resources. The commission shall consist of seven members appointed by the governor with the advice and consent of the senate. No more than **[**three**]** **four** of the members shall belong to the same political party. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of conservation and the effects and control of water contaminants. Two such members, but no more than two, shall be knowledgeable concerning the needs of agriculture, industry or mining and interested in protecting these needs in a manner consistent with the purposes of sections 644.006 to 644.141. One such member shall be knowledgeable concerning the needs of publicly owned wastewater treatment works. Four members shall represent the public. No member shall receive, or have received during the previous two years, a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit pursuant to any federal water pollution control act as amended and as applicable to this state. All members appointed on or after August 28, 2002, shall have demonstrated an interest and knowledge about water quality. All members appointed on or after August 28, 2002, shall be qualified by interest, education, training or experience to provide, assess and evaluate scientific and technical information concerning water quality, financial requirements and the effects of the promulgation of standards, rules and regulations. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

2. The members' terms of office shall be four years and until their successors are selected and qualified. Provided, however, that the first three members appointed shall serve a term of two years, the next three members appointed shall serve a term of four years, thereafter all members appointed shall serve a term of four years. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties.

3. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the director to all members of the commission. Four members of the commission shall constitute a quorum. All powers and duties conferred specifically upon members of the commission shall be exercised personally by the members and not by alternates or representatives. All actions of the commission shall be taken at meetings open to the public. Any member absent from six consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 of this section.

Approved June 13, 2007

SB 433 [SB 433]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes laws relating to unemployment compensation for veterans

AN ACT to repeal section 288.042, RSMo, and to enact in lieu thereof one new section relating to veterans' unemployment compensation.

SECTION

A. Enacting clause.

288.042. War on terror veterans, defined — eligible for benefits — time period — penalty — offer of similar wages — fund — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 288.042, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.042, to read as follows:

288.042. WAR ON TERROR VETERANS, DEFINED — ELIGIBLE FOR BENEFITS — TIME PERIOD — PENALTY — OFFER OF SIMILAR WAGES — FUND — RULEMAKING AUTHORITY. — 1. For purposes of this **[**chapter**]** **section**, a "war on terror veteran" is a **[**person**]** **Missouri resident** who serves or has served in the military and to whom the following criteria apply:

(1) The person is or was a member of the **Missouri** national guard or a member of a United States armed forces reserves unit **who was officially domiciled in the state of Missouri immediately prior to deployment**;

(2) The person was deployed as part of his or her military unit at any time after September 11, 2001, and such deployment caused the person to be unable to continue working for his or her employer;

(3) The person was employed either part time or full time before deployment; and

(4) **A Missouri court or United States district court located in Missouri has found that** the person was **[**unemployed in**]** **discharged from or laid off from** his or her nonmilitary employment **[**either**]** during **deployment** or within thirty days after the completion of his or her deployment.

2. Notwithstanding any provisions of sections 288.010 to 288.500, any war on terror veteran shall be entitled to receive **veterans'** unemployment compensation benefits under this

[chapter**]** **section**. A war on terror veteran shall be entitled to a **[**maximum**]** weekly benefit **amount** of eight percent of the wages paid to the war on terror veteran during that **calendar** quarter during which the war on terror veteran earned the highest amount within the five **completed calendar** quarters during which the war on terror veteran received wages **immediately** before deployment. The maximum amount of a **[**maximum**]** weekly benefit **amount** shall be one thousand one hundred fifty-three dollars and sixty-four cents**[**, annually adjusted by the consumer price index**]**.

3. A war on terror veteran shall be entitled to a **[**maximum**]** weekly benefit **amount** for twenty-six weeks. **The division may collect erroneously paid benefits in the manner provided in sections 288.160 and 288.170.**

4. Any employer who is found in any Missouri court or United States district court located in Missouri to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to his or her absence while deployed shall be subject to an administrative penalty in the amount of **[**twenty-five**]** **thirty-five** thousand dollars. The director **of the division of employment security** shall take judicial notice of judgments in suits brought under the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301). Such judgments may be considered to have a res judicata effect on the director's determination. **The administrative penalty shall be collectible in the manner provided in sections 288.160 and 288.170.**

5. A war on terror veteran shall **[**not**]** be considered to have **[**voluntarily quit**]** **been discharged from** his or her employment if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return after deployment.

6. There is hereby created in the state treasury the "War on Terror Unemployment Compensation Fund", which shall consist of money collected under this section **and such other state funds appropriated by the general assembly**. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration**, including payment of benefits and refunds,** of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

7. The division of employment security may promulgate rules to enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

Approved July 13, 2007

SB 456 [SCS SB 456]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Grants additional payment to school districts in certain situations

AN ACT to repeal section 163.011, RSMo, and to enact in lieu thereof two new sections relating to fine revenue for school district funding.

SECTION
A. Enacting clause.
163.011. Definitions — method of calculating state aid.
163.038. Dsitricts with a county municipal court, payments to be made.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 163.011, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 163.011 and 163.038, to read as follows:

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the

ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines **[**or less any decrease in the amount received for school purposes from fines in any school district located entirely within any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that creates a county municipal court after January 1, 2006**]**. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than

one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.038. DSITRICTS WITH A COUNTY MUNICIPAL COURT, PAYMENTS TO BE MADE. — Notwithstanding any provision of law to the contrary, any school district that is located at least partially in any county that creates a county municipal court or is otherwise eligible to prosecute county ordinance violations under section 66.010, RSMo, et seq., after January 1, 2006, shall be entitled to a payment amount from the department of elementary and secondary education in addition to all other payments required under this chapter equal to the decrease, if any, in the amount of revenue a district receives from fines in the current year from the revenue the district received from fines in fiscal year 2005.

Approved June 30, 2007

SB 497 [HCS SCS SB 497]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to administration of county funds

AN ACT to repeal sections 50.327, 52.290, 52.312, 52.315, 52.317, 58.500, 58.510, 94.660, 110.130, 110.140, 110.150, 141.150, 141.640, and 473.743, RSMo, and to enact in lieu thereof thirteen new sections relating to county officials, with penalty provisions.

SECTION

A. Enacting clause.
50.327. Base salary schedules for county officials — salary commission responsible for computation of county official salaries, except for charter counties.
52.290. Collection of back taxes, certain counties — fee deposited in county general revenue fund and retirement fund — collection of back taxes, certain political subdivisions, fee.
52.312. Tax maintenance fund established, use of money.
52.315. Monthly deposits in tax maintenance fund — additional uses of money — audit of fund.
52.317. Moneys provided for budget purposes, requirements — moneys remaining in fund at end of calendar year, requirements — one-time expenditures, common fund permitted.
58.500. Duty of public administrator on receipt of money or property.
94.660. Transportation sales tax, ballot — effective, when — approval required in city and county — collection, fund created — use of funds — abolition of tax, procedure — reduction of rate.
110.130. Depositaries of county funds — how selected.
110.140. Procedure for bidders — disclosure of bids a misdemeanor.
110.150. Public opening of bids — computation and payment of interest — rejected bids.
141.150. Fees allowed (first class counties).
141.640. Collector's commission (first class charter counties).
473.743. Duty of public administrator to take charge of estates, when.
58.510. Money, when and how paid to representatives of deceased.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.327, 52.290, 52.312, 52.315, 52.317, 58.500, 58.510, 94.660, 110.130, 110.140, 110.150, 141.150, 141.640, and 473.743, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 50.327, 52.290, 52.312, 52.315, 52.317, 58.500, 94.660, 110.130, 110.140, 110.150, 141.150, 141.640, and 473.743, to read as follows:

50.327. BASE SALARY SCHEDULES FOR COUNTY OFFICIALS — SALARY COMMISSION RESPONSIBLE FOR COMPUTATION OF COUNTY OFFICIAL SALARIES, EXCEPT FOR CHARTER COUNTIES. — Notwithstanding any other provisions of law to the contrary, the salary schedules contained in section 49.082, RSMo, sections 50.334 and 50.343, 51.281, RSMo, 51.282, RSMo, 52.269, RSMo, 53.082, RSMo, 53.083, RSMo, 54.261, RSMo, 54.320, RSMo, 55.091, RSMo, 56.265, RSMo, 57.317, RSMo, 58.095, RSMo, and 473.742, RSMo, shall be set as a base schedule for those county officials**[**, unless the current salary of such officials, as of August 28, 2005, is lower than the compensation provided under the salary schedules. Beginning August 28, 2005,**]**. **Except when it is necessary to increase newly elected or reelected county officials' salaries, in accordance with section 13, article VII, Constitution of Missouri, to comply with the requirements of this section,** the salary commission in all counties except charter counties in this state shall be responsible for the computation of salaries of all county officials; provided, however, that any percentage salary adjustments in a county shall be equal for all such officials in that county.

52.290. COLLECTION OF BACK TAXES, CERTAIN COUNTIES — FEE DEPOSITED IN COUNTY GENERAL REVENUE FUND AND RETIREMENT FUND — COLLECTION OF BACK TAXES, CERTAIN POLITICAL SUBDIVISIONS, FEE. — 1. In all counties except counties **[**of the first classification**]** having a charter form of government and any city not within a county, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of seven percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. Two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county general fund, two-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the tax maintenance fund of the county as required by section 52.312 and three-sevenths of the fees collected pursuant to the provisions of this section shall be paid into the county employees' retirement fund created by sections 50.1000 to 50.1200, RSMo.

2. In all counties **[**of the first classification**]** having a charter form of government and any city not within a county, the collector shall collect on behalf of the county and pay into the county general fund a fee for the collection of delinquent and back taxes of two percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax except that in a county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**]** **seven** hundred **[**fifty**]** thousand inhabitants, the collector shall collect on behalf of the county a fee for the collection of delinquent and back taxes of three percent on all sums collected to be added to the face of the tax bill and collected from the party paying the tax. **[**Two-thirds of the fees collected pursuant to the provisions of this section shall be paid into the county general fund and one-third of the fees collected pursuant to this section shall be paid into the tax maintenance fund of the county as required by section 52.312, RSMo.**]** **If a county is required by section 52.312 to establish a tax maintenance fund, one-third of the fees collected under this subsection shall be paid into that fund; otherwise, all fees collected under the provisions of this subsection shall be paid into the county general fund.**

3. Such county collector may accept credit cards as proper form of payment of outstanding delinquent and back taxes due. No county collector may charge a surcharge for payment by credit card.

52.312. TAX MAINTENANCE FUND ESTABLISHED, USE OF MONEY. — Notwithstanding any provisions of law to the contrary, in addition to fees provided for in this chapter, or any other provisions of law in conflict with the provisions of this section, all counties, including **[**a**] any** county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**] seven** hundred **[**fifty**]** thousand inhabitants**,** other than counties of the first classification having a charter form of government and any city not within a county, subject to the provisions of this section, shall establish a fund to be known as the "Tax Maintenance Fund" to be used solely as a depository for funds received or collected for the purpose of funding additional costs and expenses incurred in the office of collector.

52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. — 1. The two-sevenths collected to fund the tax maintenance fund **[**pursuant to**] under subdivision (1) of** section 52.290 **and all moneys collected to fund the tax maintenance fund under subdivision (2) of section 52.290** shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.

52.317. MONEYS PROVIDED FOR BUDGET PURPOSES, REQUIREMENTS — MONEYS REMAINING IN FUND AT END OF CALENDAR YEAR, REQUIREMENTS — ONE-TIME EXPENDITURES, COMMON FUND PERMITTED. — 1. Any county subject to the provisions of section 52.312 shall provide moneys for budget purposes in an amount not less than the approved budget in the previous year and shall include the same percentage adjustments in compensation as provided for other county employees as effective January first each year. Any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties of the first classification **[**without a charter form of government**]** and any county with a charter form of government and with more than two hundred fifty thousand but less than **[**three**] seven** hundred **[**fifty**]** thousand inhabitants shall be limited to an amount equal to one-half of the previous year's approved budget for the office of collector, and any moneys accumulated and remaining in the tax maintenance fund as of December thirty-first each year in all counties other than counties of the first classification and any city not within a county, which collect more than four million dollars of all current taxes charged to be collected, shall be

limited to an amount equal to the previous year's approved budget for the office of collector. Any moneys remaining in the tax maintenance fund as of December thirty-first each year that exceed the above-established limits shall be transferred to county general revenue by the following January fifteenth of each year.

2. For one-time expenditures directly attributable to any department, office, institution, commission, or county court, the county commission may budget such expenses in a common fund or account so that any such expenditures separately budgeted do not appear in any specific department, county office, institution, commission, or court budget.

58.500. DUTY OF PUBLIC ADMINISTRATOR ON RECEIPT OF MONEY OR PROPERTY. — Upon delivery of any money to the **[**treasurer**]** **public administrator**, he **or she** shall **[**place it to the credit of the city or county; if it be other property he shall, within thirty days, sell it at public auction, upon ten days' public notice, by publication in some newspaper printed in the city or county, if there be any, and if there be none, then by posting not less than six written or printed bills, giving notice of time and place of sale of such other property; and shall, in like manner, place the proceeds to the credit of the city or county**] follow the procedures as set out in section 473.743, RSMo**.

94.660. TRANSPORTATION SALES TAX, BALLOT — EFFECTIVE, WHEN — APPROVAL REQUIRED IN CITY AND COUNTY — COLLECTION, FUND CREATED — USE OF FUNDS — ABOLITION OF TAX, PROCEDURE — REDUCTION OF RATE. — 1. The governing body of any city not within a county and any county of the first classification having a charter form of government with a population of over nine hundred thousand inhabitants may propose, by ordinance or order, a transportation sales tax of up to one percent for submission to the voters of that city or county at an authorized election date selected by the governing body.

2. Any sales tax approved under this section shall be imposed on the receipts from the sale at retail of all tangible personal property or taxable services within the city or county adopting the tax, if such property and services are subject to taxation by the state of Missouri under sections 144.010 to 144.525, RSMo.

3. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county/city of ..... (county's or city's name) impose a county/city-wide sales tax of ..... percent for the purpose of providing a source of funds for public transportation purposes?

[ ] YES [ ] NO

Except as provided in subsection 4 of this section, if a majority of the votes cast in that county or city not within a county on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall go into effect on the first day of the next calendar quarter beginning after its adoption and notice to the director of revenue, but no sooner than thirty days after such adoption and notice. If a majority of the votes cast in that county or city not within a county by the qualified voters voting are opposed to the proposal, then the additional sales tax shall not be imposed in that county or city not within a county unless and until the governing body of that county or city not within a county shall have submitted another proposal to authorize the local option transportation sales tax authorized in this section, and such proposal is approved by a majority of the qualified voters voting on it. In no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal.

4. No tax shall go into effect under this section in any city not within a county or any county of the first classification having a charter form of government with a population over nine hundred thousand inhabitants unless and until both such city and such county approve the tax**.**

5. The provisions of subsection 4 of this section requiring both the city and county to approve a transportation sales tax before a transportation sales tax may go into effect in

either jurisdiction shall not apply to any transportation sales tax submitted to and approved by the voters in such city or such county on or after August 28, 2007.

[5.**]** **6.** All sales taxes collected by the director of revenue under this section on behalf of any city or county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds, shall be deposited with the state treasurer in a special trust fund, which is hereby created, to be known as the "County Public Transit Sales Tax Trust Fund". The sales taxes shall be collected as provided in section 32.087, RSMo. The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each city or county approving a sales tax under this section, and the records shall be open to inspection by officers of the city or county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or county which levied the tax, and such funds shall be deposited with the treasurer of each such city or county and all expenditures of funds arising from the county public transit sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or city not within a county.

[6.**]** **7.** The revenues derived from any transportation sales tax under this section shall be used only for the planning, development, acquisition, construction, maintenance and operation of public transit facilities and systems other than highways.

[7.**]** **8.** The director of revenue may authorize the state treasurer to make refunds from the amount in the trust fund and credited to any city or county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities or counties. If any city or county abolishes the tax, the city or county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city or county, the director of revenue shall authorize the state treasurer to remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

110.130. DEPOSITARIES OF COUNTY FUNDS — HOW SELECTED. — 1. Subject to the provisions of section 110.030 the county commission of each county in this state**[**, at the April term, in April 1997**]** **on or before the first Monday of July for the year in which a bid is requested** and every fourth year thereafter, with an option to rebid in each odd-numbered year, shall receive proposals from banking corporations or associations at the county seat of the county which desire to be selected as the depositaries of the funds of the county. **[**For the purpose of letting the funds the county commission shall, by order of record, divide the funds into not less than two nor more than twelve equal parts, except that in counties of the first classification not having a charter form of government, funds shall be divided in not less than two nor more than twenty equal parts, and the bids provided for in sections 110.140 and 110.150 may be for one or more of the parts.**]**

2. Notice that such bids will be received shall be published by the clerk of the commission twenty days before the commencement of the term in some newspaper published in the county, and if no newspaper is published therein, then the notice shall be published at the door of the courthouse of the county. In counties operating under the township organization law of this state, township boards shall exercise the same powers and privileges with reference to township funds

as are conferred in sections 110.130 to 110.260 upon county commissions with reference to county funds at the same time and manner, except that township funds shall not be divided but let as an entirety; and except, also, that in all cases of the letting of township funds, three notices, posted in three public places by the township clerk, will be a sufficient notice of such letting.

110.140. PROCEDURE FOR BIDDERS — DISCLOSURE OF BIDS A MISDEMEANOR. — 1. Any banking corporation or association in the county desiring to bid shall deliver to the clerk of the commission, on or before the first **[**day of the term**]** **Monday of July** at which the selection of depositaries is to be made, a sealed proposal, stating the rate of interest that the banking corporation, or association offers to pay on the funds of the county for the term of two or four years next ensuing the date of the bid, or, if the selection is made for a less term than two or four years, as provided in sections 110.180 and 110.190, then for the time between the date of the bid and the next regular time for the selection of depositaries as fixed by section 110.130**[**, and stating also the number of parts of the funds for which the banking corporation or association desires to bid**]**.

2. Each bid shall be accompanied by a certified check for not less than the proportion of one and one-half percent of the county revenue of the preceding year as the sum of the part or parts of funds bid for bears to the whole number of the parts, as a guaranty of good faith on the part of the bidder, that if his **or her** bid should be the highest he **or she** will provide the security required by section 110.010. Upon his **or her** failure to give the security required by law, the amount of the certified check shall go to the county as liquidated damages, and the commission may order the county clerk to readvertise for bids.

3. It shall be a misdemeanor, and punishable as such, for the clerk of the commission, or any deputy of the clerk, to directly or indirectly disclose the amount of any bid before the selection of depositaries.

110.150. PUBLIC OPENING OF BIDS — COMPUTATION AND PAYMENT OF INTEREST — REJECTED BIDS. — 1. The county commission, at noon on **or before** the first **[**day of the April term in 1997**]** **Monday of July for the year in which a bid is requested** and every second or fourth year thereafter, shall publicly open the bids, and cause each bid to be entered upon the records of the commission, and shall select as the depositaries of all the public funds of every kind and description going into the hands of the county treasurer, and also all the public funds of every kind and description going into the hands of the ex officio collector in counties under township organization, the deposit of which is not otherwise provided for by law, the banking corporations or associations whose bids respectively made for one or more of the parts of the funds shall in the aggregate constitute the largest offer for the payment of interest per annum for the funds; but the commission may reject any and all bids.

2. The interest upon each fund shall be computed upon the daily balances with the depositary, and shall be payable to the county treasurer monthly, who shall place the interest **[**on the school funds to the credit of those funds respectively, the interest on all county hospital funds and hospital district funds to the credit of those funds, the interest on county health center funds to the credit of those funds, the interest on county library funds to the credit of those funds and the interest on all other funds to the credit of the county general fund**]** **to the credit of each individual fund held by the county treasurer**; provided, that the interest on any funds collected by the collector of any county of the first classification not having a charter form of government on behalf of any political subdivision or special district shall be credited to such political subdivision or special district.

3. The county clerk shall, in opening the bids, return the certified checks deposited with him to the banks whose bids are rejected, and on approval of the security of the successful bidders return the certified checks to the banks whose bids are accepted.

141.150. FEES ALLOWED (FIRST CLASS COUNTIES). — Fees shall be allowed for services rendered under the provisions of sections 141.010 to 141.160 as follows:

(1) To the collector **[**two percent on all sums collected; such percent**] the fee authorized by section 52.290, RSMo,** to be taxed as costs and collected from the party redeeming, or from the proceeds of sale, as herein provided;

(2) To the collector for making the back tax book, twenty-five cents per tract, to be taxed as costs and collected from the party redeeming such tract;

(3) To the collector, attorney's fees in the sum of five percent of the amount of taxes actually collected and paid into the treasury after judgment is obtained or if such taxes are paid before judgment, but after suit is instituted, two percent on all sums collected and paid into the treasury; and an additional sum in the amount of two dollars for each suit instituted pursuant to the provisions of sections 141.010 to 141.160, where publication is not necessary, and in the amount of five dollars for each suit where publication is necessary, which sums shall be taxed and collected as other costs;

(4) To the circuit clerk, associate circuit judge, sheriff and printer, such fees as are allowed by law for like services in civil cases, which shall be taxed as costs in the case; provided, that in no case shall the state or county be liable for any such costs, nor shall the county commission or state auditor or commissioner of administration allow any claim for any costs incurred by the provisions of this law; provided further, that all fees collected shall be accounted for and all fees collected, except those allowed the printer, shall be paid to the county treasurer at such times and in the manner as otherwise provided by law.

141.640. COLLECTOR'S COMMISSION (FIRST CLASS CHARTER COUNTIES). — Upon the filing of any delinquent tax bill or bills or any list thereof with the collector, as provided in sections 141.210 to 141.810, there shall be imposed and charged on each such tax bill **[**a collector's commission of two percent of the principal amount of such delinquent tax bill**] the fee authorized under section 52.290, RSMo,** as an additional penalty and part of the lien thereof to be paid to the collector on all such tax bills collected by him, which **[**two percent penalty**] fee** shall be collected from the party redeeming the parcel of real estate upon which the tax bill is a lien, and shall be accounted for by the collector as other similar penalties are collected by him on delinquent land taxes upon which suit has not been filed, or, if filed, was not filed under the provisions of sections 141.210 to 141.810.

473.743. DUTY OF PUBLIC ADMINISTRATOR TO TAKE CHARGE OF ESTATES, WHEN. — It shall be the duty of the public administrator to take into his **or her** charge and custody the estates of all deceased persons, and the person and estates of all minors, and the estates or person and estate of all incapacitated persons in his **or her** county, in the following cases:

(1) When a stranger dies intestate in the county without relations, or dies leaving a will, and the personal representative named is absent, or fails to qualify;

(2) When persons die intestate without any known heirs;

(3) When persons unknown die or are found dead in the county;

(4) When money, property, papers or other estate are left in a situation exposed to loss or damage, and no other person administers on the same;

(5) When any estate of any person who dies intestate therein, or elsewhere, is left in the county liable to be injured, wasted or lost, when the intestate does not leave a known husband, widow or heirs in this state;

(6) The persons of all minors under the age of fourteen years, whose parents are dead, and who have no legal guardian or conservator;

(7) The estates of all minors whose parents are dead, or, if living, refuse or neglect to qualify as conservator, or, having qualified have been removed, or are, from any cause,

incompetent to act as such conservator, and who have no one authorized by law to take care of and manage their estate;

(8) The estates or person and estate of all disabled or incapacitated persons in his **or her** county who have no legal guardian or conservator, and no one competent to take charge of such estate, or to act as such guardian or conservator, can be found, or is known to the court having jurisdiction, who will qualify;

(9) Where from any other good cause, the court shall order him to take possession of any estate to prevent its being injured, wasted, purloined or lost**;**

(10) When monies are delivered to the public administrator from the county coroner.

[58.510. MONEY, WHEN AND HOW PAID TO REPRESENTATIVES OF DECEASED. — If the money in the treasury be demanded within five years by the legal representatives of deceased, the treasurer shall pay it to them, after deducting all fees and expenses.**]**

Approved July 13, 2007

SB 513 [SB 513]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows nurses working in any area of need to qualify for the Professional and Practical Nursing Student Loan Program

AN ACT to repeal section 335.212, RSMo, and to enact in lieu thereof one new section relating to the professional and practical nursing student loan program.

SECTION
A. Enacting clause.
335.212. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 335.212, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 335.212, to read as follows:

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or **[**public or nonprofit**] in any** agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

Approved July 13, 2007

SB 577 [CCS HCS SS SCS SB 577]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts the "Missouri Health Improvement Act of 2007"

AN ACT to repeal sections 105.711, 135.096, 191.411, 191.900, 191.905, 191.910, 198.097, 208.014, 208.151, 208.152, 208.153, 208.201, 208.212, 208.215, 208.217, 208.612, 208.631, 208.640, 208.750, 208.930, 473.398, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and section 208.755 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session, and to enact in lieu thereof fifty-one new sections relating to health care for needy persons, with penalty provisions and an emergency clause for a certain section.

SECTION

A. Enacting clause.
105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
135.096. Long-term care insurance tax deduction, amount.
135.575. Definitions — tax credit, amount — limitations — director of revenue, rules — sunset provision.
191.411. System of coordinated health care services — health access incentive fund created, purpose — enhanced Medicaid payments — rules — annual report.
191.900. Definitions.
191.905. False statement to receive health care payment prohibited — kickback, bribe, purpose, prohibited, exceptions — abuse prohibited — penalty — prosecution, procedure — Medicaid fraud reimbursement fund created — restitution — civil penalty — notification to disciplinary agencies — civil action authorized.
191.907. Original source of information to receive a portion of any recovery.
191.908. Whistleblower protections — violations, penalty.
191.909. Reports required, contents.
191.910. Attorney general may investigate violations, powers — service authorized — prosecuting attorney, report, prosecution — provision of records — no limitation of other actions.
191.914. False report or claim, penalty.
191.1050. Definitions.
191.1053. Designation of areas — re-evaluation of designations, when — rulemaking authority.
191.1056. Fund created, use of moneys.
192.632. Task force created, members, duties — expiration date.

198.069. Resident returned to facility from a medical facility, physician orders, duty of facility.
198.097. Misappropriation of funds of elderly or disabled nursing home residents, penalty.
208.001. Citation of law — MO HealthNet created — division created — rulemaking authority.
208.146. Ticket-to-work health assurance program — eligibility — expiration date.
208.151. Medical assistance, persons eligible — rulemaking authority.
208.152. Medical services for which payment will be made — copayments may be required — reimbursement for services.
208.153. Medical assistance — regulations as to costs and manner — federal medical insurance benefits may be provided.
208.197. Professional services payment committee established, members, duties.
208.201. Mo HealthNet division established — director, how appointed, powers and duties — powers, duties and functions of division.
208.202. Premium offset program, pilot project authorized, eligibility.
208.212. Annuities, affect on Medicaid eligibility — rulemaking authority.
208.213. Personal care contracts, effect on eligibility.
208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
208.217. Department may obtain medical insurance information — failure to provide information, attorney general to bring action, penalty — confidential information, penalty for disclosure — definitions.
208.230. Public assistance beneficiary employer disclosure act — report, content.
208.612. One-stop shopping for elderly citizens to apply for programs.
208.631. Program established, terminates, when — definitions.
208.640. Co-payments required, when, amount, limitations.
208.659. Revision of eligibility requirements for uninsured women's health program.
208.670. Ptractice of telehealth, rules — definitions.
208.690. Citation of law — definitions.
208.692. Program established, purpose — asset disregard — departments duties — rules.
208.694. Eligibility — discontinuance of program, effect of — reciprocal agreements.
208.696. Director's duties — rules.
208.698. Reports required.
208.750. Title — definitions.
208.930. Consumer-directed personal care assistance services, reimbursement for through eligible vendors — eligibility requirements — documentation — service plan required — premiums, amount — annual reevaluation — denial of benefits, procedure — expiration date.
208.950. Plans required — participant enrollment — survey to assess health and wellness outcomes — health risk assessments required.
208.952. Committee established, members, recommendations.
208.955. Committee established, members, duties — issuance of findings — subcommittee designated, duties, members.
208.975. Fund created, use of moneys — rules.
208.978. Report on fund — recommendations — expiration date.
473.398. Recovery of public assistance funds from recipient's estate, when authorized — procedure — exceptions.
1. Legislative budget office to conduct forecast, items to be included.
2. Psychotropic medications, access to.
3. Request for proposals.
208.014. Medicaid reform commission established, members, reimbursement for expenses, meetings, consultants, recommendations.
208.755. Family development account program established — proposals, content — department — duties — rulemaking authority.
660.546. Private insurance and Medicaid funds to finance long-term care — purchase of policy in amount commensurate with resources, defined by Medicaid, resources equal to payment not to affect eligibility for Medicaid or state's right of recovery, when — definition of estate expanded, when.
660.547. Waivers from federal Department of Health and Human Services to preserve resources for purchase of long-term care policy — payments made for policy to be considered expenditure of resources — requirements.
660.549. Outreach program to educate consumers, including financing and asset protection.
660.551. Department of insurance to precertify long-term insurance policies — no policy to be precertified with prohibited requirements — rules.
660.553. Department of insurance to provide outreach program to educate consumers.
660.555. Department to report to department of social services, content.
660.557. Director of department of social services to request federal approval of program — report to general assembly, when.
B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.711, 135.096, 191.411, 191.900, 191.905, 191.910, 198.097, 208.014, 208.151, 208.152, 208.153, 208.201, 208.212, 208.215, 208.217, 208.612, 208.631, 208.640, 208.750, 208.930, 473.398, 660.546, 660.547, 660.549, 660.551, 660.553, 660.555, and 660.557, RSMo, and section 208.755 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session, are repealed and fifty-one new sections enacted in lieu thereof, to be known as sections 105.711, 135.096, 135.575, 191.411, 191.900, 191.905, 191.907, 191.908, 191.909, 191.910, 191.914, 191.1050, 191.1053, 191.1056, 192.632, 198.069, 198.097, 208.001, 208.146, 208.151, 208.152, 208.153, 208.197, 208.201, 208.202, 208.212, 208.213, 208.215, 208.217, 208.230, 208.612, 208.631, 208.640, 208.659, 208.670, 208.690, 208.692, 208.694, 208.696, 208.698, 208.750, 208.930, 208.950, 208.952, 208.955, 208.975, 208.978, 473.398, 1, 2, and 3, to read as follows:

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; **[**or**]**

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, **[**or**]** dentist**, or other health care professional** licensed or registered **[**pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335**] under chapter 330, 331, 332, 334, 335, 336, 337, or 338**, RSMo, who provides **[**medical, dental, or nursing treatment**] health care services** within the scope of his **or her** license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such **[**treatment is**] services are** restricted to primary care and preventive health services, provided that such **[**treatment**] services** shall not include the performance of an abortion, and if such **[**medical, dental, or nursing**] health** services are provided by the **[**physician, dentist, physician assistant, dental hygienist, or nurse**] health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** without compensation. **[**Medicaid**] MO HealthNet** or medicare payments for primary care and preventive health services provided by a **[**physician, dentist, physician assistant, dental hygienist, or nurse**] health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any **[**physician, dentist, physician assistant, dental hygienist, or nurse**] health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph; **[**or**]**

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or

chapter 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter 332, RSMo, providing medical care without compensation to an individual referred to his or her care by a city or county health department organized under chapter 192 or 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally funded community health center organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the performance of an abortion. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any one claimant, and insurance policies purchased under the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician licensed under chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(4) Staff employed by the juvenile division of any judicial circuit; **[**or**]**

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars**; or**

(6) Any social welfare board created under section 205.770, RSMo, and the members and officers thereof upon conduct of such officer or employee while acting in his or her capacity as a board member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by the board and who provides health care services within the scope of his or her license or registration as prescribed by the board.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), **[**and**]** (e)**, and (f)** of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section

105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any **[**physician, dentist, physician assistant, dental hygienist, or nurse**]** **health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** for coverage concerning his or her private practice and assets shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section. However, a **[**physician, nurse, dentist, physician assistant, or dental hygienist**]** **health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), **[**and**]** (e)**, and (f)** of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a **[**physician, dentist, physician assistant, dental hygienist, or nurse**]** **health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** described in paragraph (a), (b), (c), (d), **[**or**]** (e)**, or (f)** of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs. In the case of any claim or judgment against an officer or employee of the state or any agency of the state based upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state that would give rise to a cause of action under section 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

(1) Economic damages to any one claimant; and

(2) Up to three hundred fifty thousand dollars for noneconomic damages.

The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions or proceedings for money damages arising out of or relating to the same subject matter against the state officer or employee, or the officer's or employee's estate. No officer or employee of the state or any agency of the state shall be individually liable in his or her personal capacity for conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to any defendant who is not an officer or employee of the state or any agency of the state in any proceeding against an officer or employee of the state or any agency of the state. Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant under state law or common law in proceedings where one or more defendants is not an officer or employee of the state or any agency of the state.

6. The limitation on awards for noneconomic damages provided for in this subsection shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

7. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

135.096. LONG-TERM CARE INSURANCE TAX DEDUCTION, AMOUNT. — 1. In order to promote personal financial responsibility for long-term health care in this state, for all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums to the extent such amounts are not included the individual's itemized deductions. **For all taxable years beginning after December 31, 2006, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all**

nonreimbursed amounts paid by such individuals for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the proportion of such individual's payment of all qualified long-term care insurance premiums. The director of the department of revenue shall place a line on all Missouri individual income tax returns for the deduction created by this section.

2. For purposes of this section, "qualified long-term care insurance" means any policy which meets or exceeds the provisions of sections 376.1100 to 376.1118, RSMo, and the rules and regulations promulgated pursuant to such sections for long-term care insurance.

3. Notwithstanding any other provision of law to the contrary, two or more insurers issuing a qualified long-term care insurance policy shall not act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems.

135.575. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF REVENUE, RULES — SUNSET PROVISION. — 1. As used in this section, the following terms mean:

(1) "Missouri healthcare access fund", the fund created in section 191.1056, RSMo;

(2) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo;

(3) "Taxpayer", any individual subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo.

2. The provisions of this section shall be subject to section 33.282, RSMo. For all taxable years beginning on or after January 1, 2007, a taxpayer shall be allowed a tax credit for donations in excess of one hundred dollars made to the Missouri healthcare access fund. The tax credit shall be subject to annual approval by the senate appropriation committee and the house budget committee. The tax credit amount shall be equal to one-half of the total donation made, but shall not exceed twenty-five thousand dollars per taxpayer claiming the credit. If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed, the difference shall not be refundable but may be carried forward to any of the taxpayer's next four taxable years. No tax credit granted under this section shall be transferred, sold, or assigned. The cumulative amount of tax credits which may be issued under this section in any one fiscal year shall not exceed one million dollars.

3. The department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

4. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

191.411. SYSTEM OF COORDINATED HEALTH CARE SERVICES — HEALTH ACCESS INCENTIVE FUND CREATED, PURPOSE — ENHANCED MEDICAID PAYMENTS — RULES — ANNUAL REPORT. — 1. The director of the department of health and senior services shall develop and implement a plan to define a system of coordinated health care services available and accessible to all persons, in accordance with the provisions of this section. The plan shall encourage the location of appropriate practitioners of health care services, including dentists, **or psychiatrists or psychologists as defined in section 632.005, RSMo,** in rural and urban areas of the state, particularly those areas designated by the director of the department of health and senior services as health resource shortage areas, in return for the consideration enumerated in subsection 2 of this section. The department of health and senior services shall have authority to contract with public and private health care providers for delivery of such services.

2. There is hereby created in the state treasury the "Health Access Incentive Fund". Moneys in the fund shall be used to implement and encourage a program to fund loans, loan repayments, start-up grants, provide locum tenens, professional liability insurance assistance, practice subsidy, annuities when appropriate, or technical assistance in exchange for location of appropriate health providers, including dentists, who agree to serve all persons in need of health services regardless of ability to pay. The department of health and senior services shall encourage the recruitment of minorities in implementing this program.

3. In accordance with an agreement approved by both the director of the department of social services and the director of the department of health and senior services, the commissioner of the office of administration shall issue warrants to the state treasurer to transfer available funds from the health access incentive fund to the department of social services to be used to enhance **[**Medicaid**] MO HealthNet** payments to physicians **[**or**],** dentists**, psychiatrists, psychologists, or other mental health providers licensed under chapter 337, RSMo,** in order to enhance the availability of physician **[**or**],** dental**, or mental health** services in shortage areas. The amount that may be transferred shall be the amount agreed upon by the directors of the departments of social services and health and senior services and shall not exceed the maximum amount specifically authorized for any such transfer by appropriation of the general assembly.

4. The general assembly shall appropriate money to the health access incentive fund from the health initiatives fund created by section 191.831. The health access incentive fund shall also contain money as otherwise provided by law, gift, bequest or devise. Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund of the state.

5. The director of the department of health and senior services shall have authority to promulgate reasonable rules to implement the provisions of this section pursuant to chapter 536, RSMo.

6. The department of health and senior services shall submit an annual report to the oversight committee created under section 208.955, RSMo, regarding the implementation of the plan developed under this section.

191.900. DEFINITIONS. — As used in sections 191.900 to 191.910, the following terms mean:

(1) "Abuse", the infliction of physical, sexual or emotional harm or injury. "Abuse" includes the taking, obtaining, using, transferring, concealing, appropriating or taking possession of property of another person without such person's consent;

(2) "Claim", any attempt to cause a health care payer to make a health care payment;

(3) "False", wholly or partially untrue. A false statement or false representation of a material fact means the failure to reveal material facts in a manner which is intended to deceive a health care payer with respect to a claim;

(4) "Health care", any service, assistance, care, product, device or thing provided pursuant to a medical assistance program, or for which payment is requested or received, in whole or part, pursuant to a medical assistance program;

(5) "Health care payer", a medical assistance program, or any person reviewing, adjusting, approving or otherwise handling claims for health care on behalf of or in connection with a medical assistance program;

(6) "Health care payment", a payment made, or the right under a medical assistance program to have a payment made, by a health care payer for a health care service;

(7) "Health care provider", any person delivering, or purporting to deliver, any health care, and including any employee, agent or other representative of such a person**[**;**], and further including any employee, representative, or subcontractor of the state of Missouri delivering, purporting to deliver, or arranging for the delivery of any health care**;

(8) **"Knowing" and "knowingly", that a person, with respect to information:**

(a) Has actual knowledge of the information;

(b) Acts in deliberate ignorance of the truth or falsity of the information; or

(c) Acts in reckless disregard of the truth or falsity of the information.

Use of the terms "knowing" or "knowingly" shall be construed to include the term "intentionally", which means that a person, with respect to information, intended to act in violation of the law;

(9) "Medical assistance program", **MO HealthNet, or** any program to provide or finance health care to **[**recipients**]** **participants** which is established pursuant to title 42 of the United States Code, any successor federal health insurance program, or a waiver granted thereunder. A medical assistance program may be funded either solely by state funds or by state and federal funds jointly. The term "medical assistance program" shall include the medical assistance program provided by section 208.151, RSMo, et seq., and any state agency or agencies administering all or any part of such a program;

[(9)**]** **(10)** "Person", a natural person, corporation, partnership, association or any legal entity.

191.905. FALSE STATEMENT TO RECEIVE HEALTH CARE PAYMENT PROHIBITED — KICKBACK, BRIBE, PURPOSE, PROHIBITED, EXCEPTIONS — ABUSE PROHIBITED — PENALTY — PROSECUTION, PROCEDURE — MEDICAID FRAUD REIMBURSEMENT FUND CREATED — RESTITUTION — CIVIL PENALTY — NOTIFICATION TO DISCIPLINARY AGENCIES — CIVIL ACTION AUTHORIZED. — 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this subsection shall be provided for as authorized in 42 U.S.C. Section 1320a-7b(3)(E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to **[**4**] 3** of this section is guilty of a class **[**D**] C** felony upon his **or her** first conviction, and shall be guilty of a class **[**C**] B** felony upon his **or her** second and subsequent convictions**. Any person who has been convicted of such violations shall be referred to the Office of Inspector General within the United States Department of Health and Human Services. The person so referred shall be subject to the penalties provided for under 42 U.S.C. Chapter 7, Subchapter XI, Section 1320a-7**. A prior conviction shall be pleaded and proven as provided by section 558.021, RSMo. A person who violates subsection 6 of this section shall be guilty of a class C felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than five hundred dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Any natural person who willfully prevents, obstructs, misleads, delays, or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of sections 191.900 to 191.910 is guilty of a class D felony.

[8.**] 9.** Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

[9.**] 10.** In a prosecution pursuant to subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

[10.**] 11.** Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "**[**Medicaid**] MO HealthNet** Fraud Reimbursement Fund", which

is hereby established in the state treasury. Moneys in the **[**Medicaid**]** **MO HealthNet** fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "**[**Medicaid**]** **MO HealthNet** Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the **[**Medicaid**]** **MO HealthNet** fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid into the **[**Medicaid**]** **MO HealthNet** fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. **Any moneys remaining in the MO HealthNet fraud reimbursement fund after division and appropriation to the federal government and affected state agencies shall be used to increase MO HealthNet provider reimbursement until it is at least one hundred percent of the Medicare provider reimbursement rate for comparable services.** The provisions of section 33.080, RSMo, notwithstanding, moneys in the **[**Medicaid**]** **MO HealthNet** fraud prosecution revolving fund shall not lapse at the end of the biennium.

[11.**]** **12.** A person who violates subsections 1 to **[**4**]** **3** of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

[12.**]** **13.** Upon conviction pursuant to this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

[13.**]** **14.** The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the **[**Medicaid**]** **MO HealthNet** fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the **[**Medicaid**]** **MO HealthNet** fraud prosecution revolving fund. No

reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and civil penalties provided by subsections 10 and 11 of this section have been previously ordered against the person for the same cause of action.

15. Any person who discovers a violation by himself or herself or such person's organization and who reports such information voluntarily before such information is public or known to the attorney general shall not be prosecuted for a criminal violation.

191.907. ORIGINAL SOURCE OF INFORMATION TO RECEIVE A PORTION OF ANY RECOVERY. — 1. Any person who is the original source of the information used by the attorney general to bring an action under subsection 14 of section 191.905 shall receive ten percent of any recovery by the attorney general. As used in this section, "original source of information" means information no part of which has been previously disclosed to or known by the government or public. If the court finds that the person who was the original source of the information used by the attorney general to bring an action under subsection 14 of section 191.905 planned, initiated, or participated in the conduct upon which the action is brought, such person shall not be entitled to any percentage of the recovery obtained in such action.

2. Any person who is the original source of information about the willful violation by any person of section 36.460, RSMo, shall receive ten percent of the amount of compensation that would have been paid the employee forfeiting his or her position under section 36.460, RSMo, if the employee was found to have acted fraudulently in connection with the state medical assistance program.

191.908. WHISTLEBLOWER PROTECTIONS — VIOLATIONS, PENALTY. — 1. An employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action under sections 191.900 to 191.910. Such prohibition shall not apply to an employment action against an employee who:

(1) The court finds brought a frivolous or clearly vexatious claim;

(2) The court finds to have planned, initiated, or participated in the conduct upon which the action is brought; or

(3) Is convicted of criminal conduct arising from a violation of sections 191.900 to 191.910.

2. An employer who violates this section is liable to the employee for all of the following:

(1) Reinstatement to the employee's position without loss of seniority;

(2) Two times the amount of lost back pay;

(3) Interest on the back pay at the rate of one percent over the prime rate.

191.909. REPORTS REQUIRED, CONTENTS. — 1. By January 1, 2008, and annually thereafter, the attorney general's office shall report to the general assembly and the governor the following:

(1) The number of provider investigations due to allegations of violations under sections 191.900 to 191.910 conducted by the attorney general's office and completed within the reporting year, including the age and type of cases;

(2) The number of referrals due to allegations of violations under sections 191.900 to 191.910 received by the attorney general's office;

(3) The total amount of overpayments identified as the result of completed investigations;

(4) The amount of fines and restitutions ordered to be reimbursed, with a delineation between amounts the provider has been ordered to repay, including whether or not such repayment will be completed in a lump sum payment or installment payments, and any adjustments or deductions ordered to future provider payments;

(5) The total amount of monetary recovery as the result of completed investigations;

(6) The total number of arrests, indictments, and convictions as the result of completed investigations. An annual financial audit of the MO HealthNet fraud unit within the attorney general's office shall be conducted and completed by the state auditor in order to quantitatively determine the amount of money invested in the unit and the amount of money actually recovered by such office.

2. By January 1, 2008, and annually thereafter, the department of social services shall report to the general assembly and the governor the following:

(1) The number of MO HealthNet provider and participant investigations and audits relating to allegations of violations under sections 191.900 to 191.910 completed within the reporting year, including the age and type of cases;

(2) The number of MO HealthNet long-term care facility reviews;

(3) The number of MO HealthNet provider and participant utilization reviews;

(4) The number of referrals sent by the department to the attorney general's office;

(5) The total amount of overpayments identified as the result of completed investigations, reviews, or audits;

(6) The amount of fines and restitutions ordered to be reimbursed, with a delineation between amounts the provider has been ordered to repay, including whether or not such repayment will be completed in a lump sum payment or installment payments, and any adjustments or deductions ordered to future provider payments;

(7) The total amount of monetary recovery as the result of completed investigation, reviews, or audits;

(8) The number of administrative sanctions against MO HealthNet providers, including the number of providers excluded from the program.

An annual financial audit of the program integrity unit within the department of social services shall be conducted and completed by the state auditor in order to quantitatively determine the amount of money invested in the unit and the amount of money actually recovered by such office.

191.910. ATTORNEY GENERAL MAY INVESTIGATE VIOLATIONS, POWERS — SERVICE AUTHORIZED — PROSECUTING ATTORNEY, REPORT, PROSECUTION — PROVISION OF RECORDS — NO LIMITATION OF OTHER ACTIONS. — 1. The attorney general shall have authority to investigate alleged or suspected violations of sections 191.900 to 191.910, and shall have all powers provided by sections 407.040 to 407.090, RSMo, in connection with investigations of alleged or suspected violations of sections 191.900 to 191.910, as if the acts enumerated in subsections 1 to 3 of section 191.905 are unlawful acts proscribed by chapter 407, RSMo, provided that if the attorney general exercises such powers, the provisions of section 407.070, RSMo, shall also be applicable; and may exercise all of the powers provided by subsections 1 and 2 of section 578.387, RSMo, in connection with investigations of alleged or suspected violations of sections 191.900 to 191.910, as if the acts enumerated in subsections 1 to 3 of section 191.905 involve "public assistance" as defined by section 578.375, RSMo. The attorney general and his **or her** authorized investigators shall be authorized to serve all subpoenas and civil process related to the enforcement of sections 191.900 to 191.910 and chapter 407, RSMo. In order for the attorney general to commence a state prosecution for violations of sections 191.900 to 191.910, the attorney general shall prepare and forward a report

of the violations to the appropriate prosecuting attorney. Upon receiving a referral, the prosecuting attorney shall either commence a prosecution based on the report by the filing of a complaint, information, or indictment within sixty days of receipt of said report or shall file a written statement with the attorney general explaining why criminal charges should not be brought. This time period may be extended by the prosecuting attorney with the agreement of the attorney general for an additional sixty days. If the prosecuting attorney commences a criminal prosecution, the attorney general or his designee shall be permitted by the court to participate as a special assistant prosecuting attorney in settlement negotiations and all court proceedings, subject to the authority of the prosecuting attorney, for the purpose of providing such assistance as may be necessary. If the prosecuting attorney fails to commence a prosecution and fails to file a written statement listing the reasons why criminal charges should not be brought within the appropriate time period, or declines to prosecute on the basis of inadequate office resources, the attorney general shall have authority to commence prosecutions for violations of sections 191.900 to 191.910. In cases where a defendant pursuant to a common scheme or plan has committed acts which constitute or would constitute violations of sections 191.900 to 191.910 in more than one state, the attorney general shall have the authority to represent the state of Missouri in any plea agreement which resolves all criminal prosecutions within and without the state, and such agreement shall be binding on all state prosecutors.

2. In any investigation, hearing or other proceeding pursuant to sections 191.900 to 191.910, any record in the possession or control of a health care provider, or in the possession or control of another person on behalf of a health care provider, including but not limited to any record relating to patient care, business or accounting records, payroll records and tax records, whether written or in an electronic format, shall be made available by the health care provider to the attorney general or the court, and shall be admissible into evidence, regardless of any statutory or common law privilege which such health care provider, record custodian or patient might otherwise invoke or assert. The provisions of section 326.151, RSMo, shall not apply to actions brought pursuant to sections 191.900 to 191.910. The attorney general shall not disclose any record obtained pursuant to this section, other than in connection with a proceeding instituted or pending in any court or administrative agency. The access, provision, use, and disclosure of records or material subject to the provisions of 42 U.S.C. section 290dd-2 shall be subject to said section, as may be amended from time to time, and to regulations promulgated pursuant to said section.

3. **No person shall knowingly, with the intent to defraud the medical assistance program, destroy or conceal such records as are necessary to fully disclose the nature of the health care for which a claim was submitted or payment was received under a medical assistance program, or such records as are necessary to fully disclose all income and expenditures upon which rates of payment were based under a medical assistance program. Upon submitting a claim for or upon receiving payment for health care under a medical assistance program, a person shall not destroy or conceal any records for five years after the date on which payment was received, if payment was received, or for five years after the date on which the claim was submitted, if payment was not received. Any provider who knowingly destroys or conceals such records is guilty of a class A misdemeanor.**

4. Sections 191.900 to 191.910 shall not be construed to prohibit or limit any other criminal or civil action against a health care provider for the violation of any other law. Any complaint, investigation or report received or completed pursuant to sections 198.070 and 198.090, RSMo, subsection 2 of section 205.967, RSMo, sections 375.991 to 375.994, RSMo, section 578.387, RSMo, or sections 660.300 and 660.305, RSMo, which indicates a violation of sections 191.900 to 191.910, shall be referred to the attorney general. A referral to the attorney general pursuant to this subsection shall not preclude the agencies charged with enforcing the foregoing sections

from conducting investigations, providing protective services or taking administrative action regarding the complaint, investigation or report referred to the attorney general, as may be provided by such sections; provided that all material developed by the attorney general in the course of an investigation pursuant to sections 191.900 to 191.910 shall not be subject to subpoena, discovery, or other legal or administrative process in the course of any such administrative action. Sections 191.900 to 191.910 take precedence over the provisions of sections 198.070 and 198.090, RSMo, subsection 2 of section 205.967, RSMo, sections 375.991 to 375.994, RSMo, section 578.387, RSMo, and sections 660.300 and 660.305, RSMo, to the extent such provisions are inconsistent or overlap.

191.914. FALSE REPORT OR CLAIM, PENALTY. — 1. Any person who intentionally files a false report or claim alleging a violation of sections 191.900 to 191.910 is guilty of a class A misdemeanor. Any second or subsequent violation of this section is a class D felony and shall be punished as provided by law.

2. Any person who receives any compensation in exchange for knowingly failing to report any violation of subsections 1 to 3 of section 191.905 is guilty of a class D felony.

191.1050. DEFINITIONS. — As used in sections 191.1050 to 191.1056, the following terms shall mean:

(1) "Area of defined need", a rural area or section of an urban area of this state which is located in a federally designated health professional shortage area and which is designated by the department as being in need of the services of health care professionals;

(2) "Department", the department of health and senior services;

(3) "Director", the director of the department of health and senior services;

(4) "Eligible facility", a public or nonprofit private medical facility or other health care facility licensed under chapter 197, RSMo, any mental health facility defined in section 632.005, RSMo, rural health clinic, or any group of licensed health care professionals in an area of defined need that is designated by the department as eligible to receive disbursements from the Missouri healthcare access fund under section 191.1056.

191.1053. DESIGNATION OF AREAS — RE-EVALUATION OF DESIGNATIONS, WHEN — RULEMAKING AUTHORITY. — 1. The department shall have the authority to designate an eligible facility or facilities in an area of defined need. In making such designation, the department shall consult with local health departments and consider factors, including but not limited to the health status of the population of the area, the ability of the population of the area to pay for health services, the accessibility the population of the area has to health services, and the availability of health professionals in the area.

2. The department shall reevaluate the designation of an eligible facility six years from the initial designation and every six years thereafter. Each such facility shall have the burden of proving that the facility meets the applicable requirements regarding the definition of an eligible facility.

3. The department shall not revoke the designation of an eligible facility until the department has afforded interested persons and groups in the facility's area of defined need to provide data and information in support of renewing the designation. The department may make a determination on the basis of such data and information and other data and information available to the department.

4. The department may promulgate rules to implement the provisions of sections 191.1050 to 191.1056. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,

are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

191.1056. FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Missouri Healthcare Access Fund", which shall consist of gifts, grants, and devises deposited into the fund with approval of the oversight committee created in section 208.955, RSMo. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Disbursements from the fund shall be subject to appropriations and the director shall approve disbursements from the fund consistent with such appropriations to any eligible facility to attract and recruit health care professionals and other necessary personnel, to purchase or rent facilities, to pay for facility expansion or renovation, to purchase office and medical equipment, to pay personnel salaries, or to pay any other costs associated with providing primary healthcare services to the population in the facility's area of defined need.

2. The state of Missouri shall provide matching moneys from the general revenue fund equaling one-half of the amount deposited into the fund. The total annual amount available to the fund from state sources under such a match program shall be five hundred thousand dollars for fiscal year 2008, one million five hundred thousand dollars for fiscal year 2009, and one million dollars annually thereafter.

3. The maximum annual donation that any one individual or corporation may make is fifty thousand dollars. Any individual or corporation, excluding nonprofit corporations, that make a contribution to the fund totaling one hundred dollars or more shall receive a tax credit for one-half of all donations made annually under section 135.575, RSMo. In addition, any office or medical equipment donated to any eligible facility shall be an eligible donation for purposes of receipt of a tax credit under section 135.575, RSMo, but shall not be eligible for any matching funds under subsection 2 of this section.

4. If any clinic or facility has received money from the fund closes or significantly decreases its operations, as determined by the department, within one year of receiving such money, the amount of such money received and the amount of the match provided from the general revenue fund shall be refunded to each appropriate source.

5. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

6. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

192.632. TASK FORCE CREATED, MEMBERS, DUTIES — EXPIRATION DATE. — 1. There is hereby created a "Chronic Kidney Disease Task Force". Unless otherwise stated, members shall be appointed by the director of the department of health and senior services and shall include, but not be limited to, the following members:

(1) Two physicians appointed from lists submitted by the Missouri state medical association;

(2) Two nephrologists;

(3) Two family physicians;

(4) Two pathologists;

(5) One member who represents owners or operators of clinical laboratories in the state;

(6) One member who represents a private renal care provider;

(7) One member who has a chronic kidney disease;

(8) One member who represents the state affiliate of the National Kidney Foundation;

(9) One member who represents the Missouri kidney program;

(10) Two members of the house of representatives appointed by the speaker of the house;

(11) Two members of the senate appointed by the president pro tem of the senate;

(12) Additional members may be chosen to represent public health clinics, community health centers, and private health insurers.

2. A chairperson and vice chairperson shall be elected by the members of the task force.

3. The chronic kidney disease task force shall:

(1) Develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, quality initiative clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines;

(2) Make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease for the state's population;

(3) Identify barriers to adoption of best practices and potential public policy options to address such barriers;

(4) Submit a report of its findings and recommendations to the general assembly by August 30, 2008.

4. The department of health and senior services shall provide all necessary staff, research, and meeting facilities for the chronic kidney disease task force.

5. The provisions of this section shall expire August 30, 2008.

198.069. RESIDENT RETURNED TO FACILITY FROM A MEDICAL FACILITY, PHYSICIAN ORDERS, DUTY OF FACILITY. — For any resident of an assisted living facility who is released from a hospital or skilled nursing facility and returns to an assisted living facility as a resident, such resident's assisted living facility shall immediately, upon return, implement physician orders in the hospital or discharge summary, and within twenty-four hours of the patient's return to the facility, review and document such review of any physician orders related to the resident's hospital discharge care plan or the skilled nursing facility discharge care plan and modify the individual service plan for the resident accordingly. The department of health and senior services may adjust personal care units authorized as described in subsection 14 of section 208.152, RSMo, upon the effective date of the physicians orders to reflect the services required by such orders.

198.097. MISAPPROPRIATION OF FUNDS OF ELDERLY OR DISABLED NURSING HOME RESIDENTS, PENALTY. — 1. Any person who assumes the responsibility of managing the financial affairs of an elderly **or disabled** person who is a resident of **[**a nursing home shall be**]** **any facility licensed under this chapter is** guilty of a class D felony if such person misappropriates the funds and fails to pay for the **[**nursing home**]** **facility** care of the elderly **or disabled** person. **For purposes of this subsection, a person assumes the responsibility of managing the financial affairs of an elderly person when he or she receives, has access to, handles, or controls the elderly or disabled person's monetary funds, including but not limited to Social Security income, pension, cash, or other resident income.**

2. Evidence of misappropriating funds and failure to pay for the care of an elderly or disabled person may include but not be limited to proof that the facility has sent, by

certified mail with confirmation receipt requested, notification of failure to pay facility care expenses incurred by a resident to the person who has assumed responsibility of managing the financial affairs of the resident.

3. Nothing in subsection 2 of this section shall be construed as limiting the investigations or prosecutions of violations of subsection 1 of this section or the crime of financial exploitation of an elderly or disabled person as defined by section 570.145, RSMo.

208.001. CITATION OF LAW — MO HEALTHNET CREATED — DIVISION CREATED — RULEMAKING AUTHORITY. — 1. Sections 105.711, 135.096, 135.575, 191.411, 191.900, 191.905, 191.907, 191.908, 191.909, 191.910, 191.914, 191.1050, 191.1053, 191.1056, 192.632, 198.069, 198.097, 208.001, 208.146, 208.151, 208.152, 208.153, 208.201, 208.202, 208.212, 208.213, 208.215, 208.217, 208.230, 208.612, 208.631, 208.640, 208.659, 208.670, 208.690, 208.692, 208.694, 208.696, 208.698, 208.750, 208.930, 208.950, 208.955, 208.975, 208.978, and 473.398, RSMo, may be known as and may be cited as the "Missouri Continuing Health Improvement Act".

2. In Missouri, the medical assistance program on behalf of needy persons, Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301 et seq., shall be known as "MO HealthNet". Medicaid shall also mean "MO HealthNet" wherever it appears throughout Missouri Revised Statutes. The title "division of medical services" shall also mean "MO HealthNet division".

3. The MO HealthNet division is authorized to promulgate rules, including emergency rules if necessary, to implement the provisions of the Missouri continuing health improvement act, including but not limited to the form and content of any documents required to be filed under such act.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in the Missouri continuing health improvement act, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This sections and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of the Missouri continuing health improvement act, shall be invalid and void.

208.146. TICKET-TO-WORK HEALTH ASSURANCE PROGRAM — ELIGIBILITY — EXPIRATION DATE. — 1. The program established under this section shall be known as the "Ticket to Work Health Assurance Program". Subject to appropriations and in accordance with the federal Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106-170, the medical assistance provided for in section 208.151 may be paid for a person who is employed and who:

(1) Except for earnings, meets the definition of disabled under the Supplemental Security Income Program or meets the definition of an employed individual with a medically improved disability under TWWIIA;

(2) Has earned income, as defined in subsection 2 of this section;

(3) Meets the asset limits in subsection 3 of this section;

(4) Has net income, as defined in subsection 3 of this section, that does not exceed the limit for permanent and totally disabled individuals to receive nonspenddown MO HealthNet under subdivision (24) of subsection 1 of section 208.151; and

(5) Has a gross income of two hundred fifty percent or less of the federal poverty level, excluding any earned income of the worker with a disability between two hundred

fifty and three hundred percent of the federal poverty level. For purposes of this subdivision, "gross income" includes all income of the person and the person's spouse that would be considered in determining MO HealthNet eligibility for permanent and totally disabled individuals under subdivision (24) of subsection 1 of section 208.151. Individuals with gross incomes in excess of one hundred percent of the federal poverty level shall pay a premium for participation in accordance with subsection 4 of this section.

2. For income to be considered earned income for purposes of this section, the department of social services shall document that Medicare and Social Security taxes are withheld from such income. Self-employed persons shall provide proof of payment of Medicare and Social Security taxes for income to be considered earned.

3. (1) For purposes of determining eligibility under this section, the available asset limit and the definition of available assets shall be the same as those used to determine MO HealthNet eligibility for permanent and totally disabled individuals under subdivision (24) of subsection 1 of section 208.151 except for:

(a) Medical savings accounts limited to deposits of earned income and earnings on such income while a participant in the program created under this section with a value not to exceed five thousand dollars per year; and

(b) Independent living accounts limited to deposits of earned income and earnings on such income while a participant in the program created under this section with a value not to exceed five thousand dollars per year. For purposes of this section, an "independent living account" means an account established and maintained to provide savings for transportation, housing, home modification, and personal care services and assistive devices associated with such person's disability.

(2) To determine net income, the following shall be disregarded:

(a) All earned income of the disabled worker;

(b) The first sixty-five dollars and one-half of the remaining earned income of a nondisabled spouse's earned income;

(c) A twenty-dollar standard deduction;

(d) Health insurance premiums;

(e) A seventy-five dollar a month standard deduction for the disabled worker's dental and optical insurance when the total dental and optical insurance premiums are less than seventy-five dollars;

(f) All Supplemental Security Income payments, and the first fifty dollars of SSDI payments;

(g) A standard deduction for impairment-related employment expenses equal to one-half of the disabled worker's earned income.

4. Any person whose gross income exceeds one hundred percent of the federal poverty level shall pay a premium for participation in the medical assistance provided in this section. Such premium shall be:

(1) For a person whose gross income is more than one hundred percent but less than one hundred fifty percent of the federal poverty level, four percent of income at one hundred percent of the federal poverty level;

(2) For a person whose gross income equals or exceeds one hundred fifty percent but is less than two hundred percent of the federal poverty level, four percent of income at one hundred fifty percent of the federal poverty level;

(3) For a person whose gross income equals or exceeds two hundred percent but less than two hundred fifty percent of the federal poverty level, five percent of income at two hundred percent of the federal poverty level;

(4) For a person whose gross income equals or exceeds two hundred fifty percent up to and including three hundred percent of the federal poverty level, six percent of income at two hundred fifty percent of the federal poverty level.

5. Recipients of services through this program shall report any change in income or household size within ten days of the occurrence of such change. An increase in premiums resulting from a reported change in income or household size shall be effective with the next premium invoice that is mailed to a person after due process requirements have been met. A decrease in premiums shall be effective the first day of the month immediately following the month in which the change is reported.

6. If an eligible person's employer offers employer-sponsored health insurance and the department of social services determines that it is more cost effective, such person shall participate in the employer-sponsored insurance. The department shall pay such person's portion of the premiums, co-payments, and any other costs associated with participation in the employer-sponsored health insurance.

7. The provisions of this section shall expire six years after the effective date of this section.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. — 1. **Medical assistance on behalf of needy persons shall be known as "MO HealthNet".** For the purpose of paying **[**medical assistance on behalf of needy persons**]** **MO HealthNet benefits** and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301 et seq.) as amended, the following needy persons shall be eligible to receive **[**medical assistance**]** **MO HealthNet benefits** to the extent and in the manner hereinafter provided:

(1) All **[**recipients of**]** **participants receiving** state supplemental payments for the aged, blind and disabled;

(2) All **[**recipients of**]** **participants receiving** aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040**. Participants eligible under this subdivision who are participating in drug court, as defined in section 478.001, RSMo, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services**;

(3) All **[**recipients of**]** **participants receiving** blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All **[**recipients of**]** **participants receiving** family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were **[**recipients of**]** **participants receiving** old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance

categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide **[**Medicaid**] MO HealthNet** coverage under this subdivision, the department of social services may revise the state **[**Medicaid**] MO HealthNet** plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The **[**division of medical services**] MO HealthNet division** shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving **[**medical assistance**] MO HealthNet benefits** under this section on the date of the child's birth shall be deemed to have applied for **[**medical assistance**] MO HealthNet benefits** and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a **[**medical assistance**] MO HealthNet** eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for **[**medical assistance**] MO HealthNet benefits** pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for **[**medical assistance**] MO HealthNet** benefits be required to apply for aid to

families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for **[**medical assistance**]** **MO HealthNet benefits**. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for **[**medical assistance**]** **MO HealthNet** benefits under subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent **[**case workers**]** **eligibility specialists** to process applications for **[**medical assistance**]** **MO HealthNet benefits** at the site of a health care provider, if the health care provider requests the placement of such **[**case workers**]** **eligibility specialists** and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such **[**case workers**]** **eligibility specialists**. The division may provide a health care provider with a part-time or temporary **[**case worker**]** **eligibility specialist** at the site of a health care provider if the health care provider requests the placement of such a **[**case worker**]** **eligibility specialist** and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a **[**case worker**]** **eligibility specialist**. The division may seek to employ such **[**case workers**]** **eligibility specialists** who are otherwise qualified for such positions and who are current or former welfare **[**recipients**]** **participants**. The division may consider training such current or former welfare **[**recipients as case workers**]** **participants as eligibility specialists** for this program;

(20) Pregnant women who are eligible for, have applied for and have received **[**medical assistance**]** **MO HealthNet benefits** under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum **[**medical assistance**]** **MO HealthNet benefits** provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective **[**Medicaid-eligible**]** **MO HealthNet-eligible** high-risk mothers and enroll them in the state's **[**Medicaid**]** **MO HealthNet** program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the **[**Medicaid**]** **MO HealthNet** program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any **[**Medicaid**]** **MO HealthNet** prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(23) All **[**recipients**]** **participants** who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the **[**Medicaid**]** **MO HealthNet** state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the **[**Medicaid**]** **MO HealthNet** state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as contained in the **[**Medicaid**]** **MO HealthNet** state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1**;**

(26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for **[**medical assistance**]** **MO HealthNet benefits** for four calendar months following the month in which such family would otherwise be determined to be

ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for **[**medical assistance**]** **MO HealthNet benefits** for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive **[**medical assistance**]** **MO HealthNet benefits** without fee for an additional six months. The **[**division of medical services**]** **MO HealthNet division** may provide by rule and as authorized by annual appropriation the scope of **[**medical assistance**]** **MO HealthNet** coverage to be granted to such families.

4. When any individual has been determined to be eligible for **[**medical assistance**]** **MO HealthNet benefits**, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a **[**Medicaid**]** **MO HealthNet** waiver amendment to the Section 1115 demonstration waiver or for any additional **[**Medicaid**]** **MO HealthNet** waivers necessary not to exceed one million dollars in additional costs to the state**, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955**. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof**, unless the request for such a waiver is made subject to appropriation or directed by statute**.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for **[**medical assistance**]** **MO HealthNet** benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — COPAYMENTS MAY BE REQUIRED — REIMBURSEMENT FOR SERVICES. — 1. **[**Benefit**]** **MO HealthNet** payments **[**for medical assistance**]** shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the **[**division of medical services**]** **MO HealthNet division**, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the **[**division of medical services**]** **MO HealthNet division** shall provide through rule and regulation

an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the **[**Medicaid**]** **MO HealthNet** children's diagnosis length-of-stay schedule; and provided further that the **[**division of medical services**]** **MO HealthNet division** shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the **[**division of medical services**]** **MO HealthNet division** may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the **[**division of medical services**]** **MO HealthNet division** not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for **[**recipients,**]** **participants, except to persons with more than five hundred thousand dollars equity in their home or** except **[**to**]** **for** persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The **[**division of medical services**]** **MO HealthNet division** may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of **[**Medicaid**]** **MO HealthNet** patients. The **[**division of medical services**]** **MO HealthNet division** when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for **[**recipients of**]** **participants receiving** benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the **[**recipient**]** **participant** is on a temporary leave of absence from the hospital or nursing home, provided that no such **[**recipient**]** **participant** shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a **[**recipient**]** **participant** is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the **[**Medicaid**]** **MO HealthNet** agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his physician on an outpatient, rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the **[**recipient's**]** **participant's** family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one **[**recipient**]** **participant** one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time**. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198, RSMo, shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if her or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made**;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097, RSMo. The department of mental health shall establish by administrative rule the

definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, "mental health professional" and "alcohol and drug abuse professional" shall be defined by the department of mental health pursuant to duly promulgated rules.

With respect to services established by this subdivision, the department of social services, **[**division of medical services**]** **MO HealthNet division**, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the **[**division of medical services**]** **MO HealthNet division**. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the **[**division of medical services**]** **MO HealthNet division** to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner **with a collaborative practice agreement** to the extent that such services are provided in accordance with **[**chapter**]** **chapters 334 and** 335, RSMo, and regulations promulgated thereunder**[**, regardless of whether the nurse practitioner is supervised by or in association with a physician or other health care provider**]**;

(18) Nursing home costs for **[**recipients of**]** **participants receiving** benefit payments under subdivision (4) of this subsection to reserve a bed for the **[**recipient**]** **participant** in the nursing home during the time that the **[**recipient**]** **participant** is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of **[**Medicaid**]** **MO HealthNet** certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the **[**recipient**]** **participant** is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a **[**recipient pursuant to**]** **participant under** this subdivision during any period of six consecutive months such **[**recipient**]** **participant** shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the **[**recipient**]** **participant** or the **[**recipient's**]** **participant's** responsible party that the **[**recipient**]** **participant** intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the **[**recipient**]** **participant** or the **[**recipient's**]** **participant's** responsible party prior to release of the reserved bed**[**.**];**

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines, consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines, consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines, consistent with national standards shall be used to verify medical need;

(23) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010, RSMo;

(3) Optometric services as defined in section 336.010, RSMo;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the **MO HealthNet** division **[**of medical services**]** to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The **[**division of medical services**] MO HealthNet division** shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. **[**Benefit payments for medical assistance for surgery as defined by rule duly promulgated by the division of medical services, and any costs related directly thereto, shall be made only when a second medical opinion by a licensed physician as to the need for the surgery is obtained prior to the surgery being performed.

4. The division of medical services**] The MO HealthNet division** may require any **[**recipient of medical assistance**] participant receiving MO HealthNet benefits** to pay part of the charge or cost **until July 1, 2008, and an additional payment after July 1, 2008**, as defined by rule duly promulgated by the **[**division of medical services**] MO HealthNet division**, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, RSMo, and a generic drug is substituted for a name brand drug, the **[**division of medical services**] MO HealthNet division** may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all **[**recipients the partial**] participants the additional** payment that may be required by the **[**division

of medical services**]** **MO HealthNet division** under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by **[**recipients**]** **participants** under this section shall be **[**reduced from any**]** **in addition to and not in lieu of** payments made by the state for goods or services described herein except the **[**recipient**]** **participant** portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a **[**recipient**]** **participant** is unable to pay a required **[**cost sharing**]** **payment**. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give **[**recipients**]** **participants** advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a **[**recipient**]** **participant**. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri **[**Medicaid**]** **MO HealthNet** state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

[5.**]** **4.** The **[**division of medical services**]** **MO HealthNet division** shall have the right to collect medication samples from **[**recipients**]** **participants** in order to maintain program integrity.

[6.**]** **5.** Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for **[**medical assistance**]** **MO HealthNet benefits** at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

[7.**]** **6.** Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

[8.**]** **7.** Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for **[**medical assistance**]** **MO HealthNet benefits** under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

[9.**]** **8.** Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

[10.**]** **9.** Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the **[**Medicaid**]** **MO HealthNet** program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

[11.**]** **10.** The **[**department of social services, division of medical services**]** **MO HealthNet division**, may enroll qualified residential care facilities **and assisted living facilities**, as defined in chapter 198, RSMo, as **[**Medicaid**]** **MO HealthNet** personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178, RSMo, shall not be considered as income for purposes of determining eligibility under this section.

208.153. MEDICAL ASSISTANCE — REGULATIONS AS TO COSTS AND MANNER — FEDERAL MEDICAL INSURANCE BENEFITS MAY BE PROVIDED. — 1. Pursuant to and not inconsistent with the provisions of sections 208.151 and 208.152, the **[**division of medical services**]** **MO HealthNet division** shall by rule and regulation define the reasonable costs, manner, extent, quantity, quality, charges and fees of **[**medical assistance**]** **MO HealthNet benefits** herein provided. The benefits available under these sections shall not replace those provided under other federal or state law or under other contractual or legal entitlements of the persons receiving them, and all persons shall be required to apply for and utilize all benefits available to them and to pursue all causes of action to which they are entitled. Any person entitled to **[**medical assistance**]** **MO HealthNet benefits** may obtain it from any provider of services with which an agreement is in effect under this section and which undertakes to provide the services, as authorized by the **[**division of medical services**]** **MO HealthNet division**. At the discretion of the director of **[**medical services**]** **the MO HealthNet division** and with the approval of the governor, the **[**division of medical services**]** **MO HealthNet division** is authorized to provide medical benefits for **[**recipients of**]** **participants receiving** public assistance by expending funds for the payment of federal medical insurance premiums, coinsurance and deductibles pursuant to the provisions of Title XVIII B and XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended.

2. **[**Medical assistance**]** **Subject to appropriations and pursuant to and not inconsistent with the provisions of this section and sections 208.151 and 208.152, the MO HealthNet division shall by rule and regulation develop pay-for-performance payment program guidelines. The pay-for-performance payment program guidelines shall be developed and maintained by the professional services payment committee, as established in section 208.197. Providers operating under a risk-bearing care coordination plan and an administrative services organization plan shall be required to participate in a pay-for-performance payment program, and providers operating under the state coordinated fee-for-service plan shall participate in the pay-for-performance payment program. Any employer of a physician whose work generates all or part of a payment under this subsection shall pass the pertinent portion, as defined by departmental regulation, of the pay-for-performance payment on to the physician, without any corresponding decrease in the compensation to which that provider would otherwise be entitled.**

3. MO HealthNet shall include benefit payments on behalf of qualified Medicare beneficiaries as defined in 42 U.S.C. section 1396d(p). The **[**division of family services**]** **family support division** shall by rule and regulation establish which qualified Medicare beneficiaries are eligible. The **[**division of medical services**]** **MO HealthNet division** shall define the premiums, deductible and coinsurance provided for in 42 U.S.C. section 1396d(p) to be provided on behalf of the qualified Medicare beneficiaries.

[3. Beginning July 1, 1990, medical assistance**]** **4. MO HealthNet** shall include benefit payments for Medicare Part A cost sharing as defined in clause (p)(3)(A)(i) of 42 U.S.C. 1396d on behalf of qualified disabled and working individuals as defined in subsection (s) of section 42 U.S.C. 1396d as required by subsection (d) of section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The **[**division of medical services**]** **MO HealthNet division** may impose a premium for such benefit payments as authorized by paragraph (d)(3) of section 6408 of P.L. 101-239.

[4. Medical assistance**]** **5. MO HealthNet** shall include benefit payments for Medicare Part B cost-sharing described in 42 U.S.C. section 1396(d)(p)(3)(A)(ii) for individuals described

in subsection 2 of this section, but for the fact that their income exceeds the income level established by the state under 42 U.S.C. section 1396(d)(p)(2) but is less than one hundred and ten percent beginning January 1, 1993, and less than one hundred and twenty percent beginning January 1, 1995, of the official poverty line for a family of the size involved.

[5. Beginning July 1, 1991,**] 6.** For an individual eligible for **[**medical assistance**] MO HealthNet** under Title XIX of the Social Security Act, **[**medical assistance**] MO HealthNet** shall include payment of enrollee premiums in a group health plan and all deductibles, coinsurance and other cost-sharing for items and services otherwise covered under the state Title XIX plan under section 1906 of the federal Social Security Act and regulations established under the authority of section 1906, as may be amended. Enrollment in a group health plan must be cost effective, as established by the Secretary of Health and Human Services, before enrollment in the group health plan is required. If all members of a family are not eligible for **[**medical assistance under Title XIX**] MO HealthNet** and enrollment of the Title XIX eligible members in a group health plan is not possible unless all family members are enrolled, all premiums for noneligible members shall be treated as payment for **[**medical assistance**] MO HealthNet** of eligible family members. Payment for noneligible family members must be cost effective, taking into account payment of all such premiums. Non-Title XIX eligible family members shall pay all deductible, coinsurance and other cost-sharing obligations. Each individual as a condition of eligibility for **[**medical assistance**] MO HealthNet benefits** shall apply for enrollment in the group health plan.

7. Any Social Security cost-of-living increase at the beginning of any year shall be disregarded until the federal poverty level for such year is implemented.

8. If a MO HealthNet participant has paid the requested spenddown in cash for any month an subsequently pays an out-of-pocket valid medical expense for such month, such expense shall be allowed as a deduction to future required spenddown for up to three months from the date of such expense.

208.197. PROFESSIONAL SERVICES PAYMENT COMMITTEE ESTABLISHED, MEMBERS, DUTIES. — 1. The "Professional Services Payment Committee" is hereby established within the MO HealthNet division to develop and oversee the pay-for-performance payment program guidelines under section 208.153. The members of the committee shall be appointed by the governor no later than December 31, 2007, and shall be subject to the advice and consent of the senate. The committee shall be composed of eighteen members, geographically balanced, including nine physicians licensed to practice in this state, two patient advocates and the attorney general, or his or her designee. The remaining members shall be persons actively engaged in hospital administration, nursing home administration, dentistry, and pharmaceuticals. The members of the committee shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties.

2. The MO HealthNet division shall maintain the pay-for-performance payment program in a manner that ensures quality of care, fosters the relationship between the patient and the provider, uses accurate data and evidence-based measures, does not discourage providers from caring for patients with complex or high risk conditions, and provides fair and equitable program incentives.

208.201. MO HEALTHNET DIVISION ESTABLISHED — DIRECTOR, HOW APPOINTED, POWERS AND DUTIES — POWERS, DUTIES AND FUNCTIONS OF DIVISION. — 1. The **[**"Division of Medical Services"**] "MO HealthNet Division"** is hereby established within the department of social services. The director of the **MO HealthNet** division shall be appointed by the director of the department. **Where the title "division of medical services" is found in the Missouri Revised statutes it shall mean "MO HealthNet division".**

2. The **[**division of medical services**]** **MO HealthNet division** is an integral part of the department of social services and shall have and exercise all the powers and duties necessary to carry out fully and effectively the purposes assigned to it by law and shall be the state agency to administer payments to providers under the **[**medical assistance**]** **MO HealthNet** program and to carry out such other functions, duties, and responsibilities as the **[**division of medical services**]** **MO HealthNet division** may be transferred by law, or by a departmental reorganizational plan pursuant to law.

3. All powers, duties and functions of the **[**division of family services**]** **family support division** relative to the development, administration and enforcement of the medical assistance programs of this state are transferred by type I transfer as defined in the Omnibus State Reorganization Act of 1974 to the **[**division of medical services**]** **MO HealthNet division**. The **[**division of family services**]** **family support division** shall retain the authority to determine and regulate the eligibility of needy persons for participation in the **[**medical assistance**]** **MO HealthNet** program.

4. **All state regulations adopted under the authority of the division of medical services shall remain in effect unless withdrawn or amended by authority of the MO HealthNet division.**

5. The director of the **[**division of medical services**]** **MO HealthNet division** shall exercise the powers and duties of an appointing authority under chapter 36, RSMo, to employ such administrative, technical, and other personnel as may be necessary, and may designate subdivisions as needed for the performance of the duties and responsibilities of the division.

[5.**]** **6.** In addition to the powers, duties and functions vested in the **[**division of medical services**]** **MO HealthNet division** by other provisions of this chapter or by other laws of this state, the **[**division of medical services**]** **MO HealthNet division** shall have the power:

(1) To sue and be sued;

(2) To adopt, amend and rescind such rules and regulations necessary or desirable to perform its duties under state law and not inconsistent with the constitution or laws of this state;

(3) To make and enter into contracts and carry out the duties imposed upon it by this or any other law;

(4) To administer, disburse, accept, dispose of and account for funds, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri or the federal government for any lawful purpose;

(5) To cooperate with the United States government in matters of mutual concern pertaining to any duties of the **[**division of medical services**]** **MO HealthNet division** or the department of social services, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state medical assistance plans required by federal law, and the modification or amendment of a state medical assistance plan where required by federal law;

(6) To make reports in such form and containing such information as the United States government may, from time to time, require and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(7) To create and appoint, when and if it may deem necessary, advisory committees not otherwise provided in any other provision of the law to provide professional or technical consultation with respect to [medical assistance] **MO HealthNet** program administration. Each advisory committee shall consult with and advise the **[**division of medical services**]** **MO HealthNet division** with respect to policies incident to the administration of the particular function germane to their respective field of competence;

(8) To define, establish and implement the policies and procedures necessary to administer payments to providers under the **[**medical assistance**]** **MO HealthNet** program;

(9) To conduct utilization reviews to determine the appropriateness of services and reimbursement amounts to providers participating in the **[**medical assistance**]** **MO HealthNet** program;

(10) To establish or cooperate in research or demonstration projects relative to the medical assistance programs, including those projects which will aid in effective coordination or planning between private and public medical assistance programs and providers, or which will help improve the administration and effectiveness of medical assistance programs.

208.202. PREMIUM OFFSET PROGRAM, PILOT PROJECT AUTHORIZED, ELIGIBILITY. — 1. The director of the MO HealthNet Division, in collaboration with other appropriate agencies, is authorized to implement, subject to appropriation, a pilot project premium offset program for making standardized private health insurance coverage available to qualified individuals. Subject to approval by the oversight committee created in section 208.955, the division shall implement the program in two regions in the state, with one in an urban area and one in a rural area. Under the program:

(1) An individual is qualified for the premium offset if the individual has been uninsured for one year;

(2) An individual's income shall not exceed one hundred eighty-five percent of the federal poverty level;

(3) The premium offset shall only be payable for an employee if the employer or employee or both pay their respective shares of the required premium. Absent employer participation, a qualified employee, or qualified employee and qualified spouse, may directly enroll in the MO HealthNet premium offset program;

(4) The qualified uninsured individual shall not be entitled to MO HealthNet wraparound services.

2. Individuals qualified for the premium offset program established under this section who apply after appropriation authority is depleted to pay for the premium offset shall be placed on a waiting list for that state fiscal year. If additional money is appropriated the MO HealthNet division shall process applications for MO HealthNet premium offset services based on the order in which applicants were placed on the waiting list.

3. No employer shall participate in the pilot project for more than five years.

4. The department of social services is authorized to pursue either a federal waiver or a state plan amendment, or both, to obtain federal funds necessary to implement a premium offset program to assist uninsured lower-income Missourians in obtaining health care coverage.

5. The provisions of this section shall expire June 30, 2011.

208.212. ANNUITIES, AFFECT ON MEDICAID ELIGIBILITY — RULEMAKING AUTHORITY. — 1. For purposes of **[**Medicaid**]** **MO HealthNet** eligibility, **the stream of income from** investment in annuities shall be **[**limited to**]** **excluded as an available resource for** those annuities that:

(1) Are actuarially sound as measured against the Social Security Administration Life Expectancy Tables, as amended;

(2) Provide equal or nearly equal payments for the duration of the device and which exclude balloon-style final payments; **[**and**]**

(3) Provide the state of Missouri secondary or contingent beneficiary status ensuring payment if the individual predeceases the duration of the annuity, in an amount equal to the **[**Medicaid**]** **MO HealthNet** expenditure made by the state on the individual's behalf**; and**

(4) Name and pay the MO HealthNet claimant as the primary beneficiary.

2. The department shall establish a sixty month look-back period to review any investment in an annuity by an applicant for **[**Medicaid**]** **MO HealthNet** benefits. If an investment in an

annuity is determined by the department to have been made in anticipation of obtaining or with an intent to obtain eligibility for [Medicaid] **MO HealthNet** benefits, the department shall have available all remedies and sanctions permitted under federal and state law regarding such investment. The fact that an investment in an annuity which occurred prior to August 28, 2005, does not meet the criteria established in subsection 1 of this section shall not automatically result in a disallowance of such investment.

3. The department of social services shall promulgate rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

208.213. PERSONAL CARE CONTRACTS, EFFECT ON ELIGIBILITY. — 1. In determining if an institutionalized individual is ineligible for the periods and reasons specified in 42 U.S.C. Section 1396p, a personal care contract received in exchange for personal property, real property, or cash and securities is fair and valuable consideration only if:

(1) There is a written agreement between the individual or individuals providing services and the individual receiving care which specifies the type, frequency, and duration of the services to be provided that was signed and dated on or before the date the services began;

(2) The services do not duplicate those which another party is being paid to provide;

(3) The individual receiving the services has a documented need for the personal care services provided;

(4) The services are essential to avoid institutionalization of the individual receiving benefit of the services;

(5) Compensation for the services shall be made at the time services are performed or within two months of the provision of the services; and

(6) The fair market value of the services provided prior to the month of institutionalization is equal to the fair market value of the assets exchanged for the services.

2. The fair market value for services provided shall be based on the current rate paid to providers of such services in the county of residence.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. [Medicaid] **MO HealthNet** is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a [recipient of] **participant receiving** public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the [recipient] **participant** may be entitled, payments made by the department of social services **or MO HealthNet division** shall be a debt due the state and recoverable from the liable party or [recipient] **participant** for all payments made in behalf of the [recipient] **participant** and the debt due the state shall not exceed the payments made from [medical assistance] **MO HealthNet benefits** provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the [recipient] **participant**, minor or estate for payments on account of the injury,

disease, or disability or benefits arising from a health insurance program to which the [recipient] **participant** may be entitled.

2. The department of social services**, MO HealthNet division, or its contractor** may maintain an appropriate action to recover funds **paid by the department of social services or MO HealthNet division or its contractor that are** due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the [recipient] **participant**, minor or estate.

3. Any [recipient] **participant**, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that [recipient] **participant** or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the [recipient] **participant** may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services **or MO HealthNet division** has paid [medical assistance] **MO HealthNet** benefits as defined by this chapter, promptly notify the [department] **MO HealthNet division** as to the pursuit of such legal rights.

4. Every applicant or [recipient] **participant** by application assigns his right to the department **of social services or MO HealthNet division** of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and [recipients] **participant**, including a person authorized by the probate code, shall cooperate with the department of social services**, MO HealthNet division** in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for [medical assistance] **MO HealthNet benefits** as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and [recipients] **participants** shall cooperate with the agency in obtaining third-party resources due to the applicant, [recipient] **participant**, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services**, MO HealthNet division** in accordance with federally prescribed standards shall render the applicant or [recipient] **participant** ineligible for [medical assistance] **MO HealthNet benefits** under sections 208.151 to 208.159 and sections 208.162 and 208.204. **A recipient who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds, the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.**

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for [medical assistance] **MO HealthNet benefits** under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or [recipient's] **participant's** claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of [medical assistance] **MO HealthNet** benefits shall notify the [department] **MO HealthNet division** upon agreeing to assist such person and further shall notify the [department] **MO HealthNet division** of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or [recipient] **participant** to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the [recipient] **participant** may be entitled.

6. Every [recipient] **participant**, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080, RSMo, to bring an action for wrongful

death, or his attorney or legal representative shall promptly notify the **[**department**]** **MO HealthNet division** of any recovery from a third party and shall immediately reimburse the department **of social services, MO HealthNet division, or its contractor** from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. **A judgment, award, or settlement in an action by a recipient to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.**

7. The department **[**director**]** **of social services, MO HealthNet division or its contractor** shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the **[**recipient**]** **participant** may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. **Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.**

8. The department of social services **or MO HealthNet division** shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the **[**recipient**]** **participant** may be entitled which resulted in medical expenses for which the department **or MO HealthNet division** made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the **[**recipient**]** **participant** may be entitled which resulted in payments made by the department **or MO HealthNet division**. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or **[**recipient**]** **participant** has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department **or MO HealthNet division** has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the **[**recipient**]** **participant**, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the **[**recipient**]** **participant** incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the **[**recipient**]** **participant** incident to the recovery and paid by the **[**recipient**]** **participant** up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the **[**recipient**]** **participant**, by insurance provided by the **[**recipient**]** **participant**, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the **[**recipient**]** **participant**;

(5) The age of the **[**recipient**]** **participant** and of persons dependent for support upon the **[**recipient**]** **participant**, the nature and permanency of the **[**recipient's**]** **participant's** injuries as they affect not only the future employability and education of the **[**recipient**]** **participant** but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the **[**recipient**]** **participant**, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the **[**recipient**]** **participant** to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction.

11. The court may reduce and apportion the department's **or MO HealthNet division's** lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department **or MO HealthNet division** shall pay its pro rata share of the attorney's fees based on the department's **or MO HealthNet division's** lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140, RSMo. The charges of the department **or MO HealthNet division or contractor** described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a **[**recipient**]** **participant** because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, irrespective of whether or not an action based on **[**recipient's**]** **participant's** claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any **[**recipient**]** **participant**, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for **[**medical assistance**]** **MO HealthNet benefits** to the **[**recipient**]** **participant** or minor involved. The department **or MO HealthNet division** shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department **or MO HealthNet division** shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection,

"permanently institutionalized individuals" includes those people who the department **or MO HealthNet division** determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the **[**recipient**]** **participant** has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the **[**recipient's**]** **participant's** entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for **[**medical assistance**]** **MO HealthNet benefits** paid or to be paid on behalf of a **[**recipient**]** **participant**. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The **[**director of the department or the director's designee**]** **MO HealthNet division** shall file for record, with the recorder of deeds of the county in which any real property of the **[**recipient**]** **participant** is situated, a written notice of the lien. The notice of lien shall contain the name of the **[**recipient**]** **participant** and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder**. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents**;

(3) No such lien may be imposed against the property of any individual prior to **[**his**]** **the individual's** death on account of **[**medical assistance**]** **MO HealthNet benefits** paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his **or her** income required for personal needs; and

b. With respect to whom the director of the **[**department of social services**]** **MO HealthNet division** or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer designated by the director of the **[**department of social services**]** **MO HealthNet division**; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the **[**recipient's**]** **participant's** expenses of the claim against the third party.

15. Application for and acceptance of **[**medical assistance**]** **MO HealthNet benefits** under this chapter shall constitute an assignment to the department of social services **or MO**

HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All **[**recipients of**]** **participants receiving** benefits as defined in this chapter shall cooperate with the state by reporting to the **family support** division **[**of family services or the division of medical services**] or the MO HealthNet division**, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives **[**medical assistance**] MO HealthNet benefits** is sustained, on such form or forms as provided by the **family support** division **[**of family services or the division of medical services**] or MO HealthNet division**.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or **[**his**] the director's** designee may compromise, settle or waive any such claim in whole or in part in the interest of the **[**medical assistance**] MO HealthNet** program. **Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost effectiveness is determined based on the following:**

(1) Actual and legal issues of liability as may exist between the recipient and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim.

208.217. DEPARTMENT MAY OBTAIN MEDICAL INSURANCE INFORMATION — FAILURE TO PROVIDE INFORMATION, ATTORNEY GENERAL TO BRING ACTION, PENALTY — CONFIDENTIAL INFORMATION, PENALTY FOR DISCLOSURE — DEFINITIONS. — 1. As used in this section, the following terms mean:

(1) "Data match", a method of comparing the department's information with that of another entity and identifying those records which appear in both files. This process is accomplished by a computerized comparison by which both the department and the entity utilize a computer readable electronic media format;

(2) "Department", the Missouri department of social services or any division thereof;

(3) "Entity":

(a) Any insurance company as defined in chapter 375, RSMo, or any public organization or agency transacting or doing the business of insurance; or

(b) Any health service corporation or health maintenance organization as defined in chapter 354, RSMo, or any other provider of health services as defined in chapter 354, RSMo; **[**or**]**

(c) Any self-insured organization or business providing health services as defined in chapter 354, RSMo; **or**

(d) Any third-party administrator (TPA), administrative services organization (ASO), or pharmacy benefit manager (PBM) transacting or doing business in Missouri or administering or processing claims or benefits, or both, for residents of Missouri;

(4) "Individual", any applicant or present or former **[**recipient of**]** **participant receiving** public assistance benefits under sections 208.151 to 208.159 and section 208.162;

(5) "Insurance", any agreement, contract, policy plan or writing entered into voluntarily or by court or administrative order providing for the payment of medical services or for the provision of medical care to or on behalf of an individual;

(6) "Request", any inquiry by the division of medical services for the purpose of determining the existence of insurance where the department may have expended **[**medical assistance**]** **MO HealthNet** benefits.

2. The department may enter into a contract with any entity, and the entity shall, upon request of the department of social services, inform the department of any records or information pertaining to the insurance of any individual.

3. The information which is required to be provided by the entity regarding an individual is limited to those insurance benefits that could have been claimed and paid by an insurance policy agreement or plan with respect to medical services or items which are otherwise covered under the **[**Missouri Medicaid**]** **MO HealthNet** program.

4. A request for a data match made by the department pursuant to this section shall include sufficient information to identify each person named in the request in a form that is compatible with the record-keeping methods of the entity. Requests for information shall pertain to any individual or the person legally responsible for such individual **and may be requested at a minimum of twice a year**.

5. The department shall reimburse the entity which is requested to supply information as provided by this section for actual direct costs, based upon industry standards, incurred in furnishing the requested information and as set out in the contract. The department shall specify the time and manner in which information is to be delivered by the entity to the department. No reimbursement will be provided for information requested by the department other than by means of a data match.

6. Any entity which has received a request from the department pursuant to this section shall provide the requested information in **[**writing**]** **compliance with HIPPAA required transactions** within sixty days of receipt of the request. Willful failure of an entity to provide the requested information within such period shall result in liability to the state for civil penalties of up to ten dollars for each day thereafter. The attorney general shall, upon request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall determine the amount of the civil penalty to be assessed. **A health insurance carrier, including instances where they act in the capacity of an administrator of an ASO account, and a TPA acting in the capacity of an administrator for a fully insured or self funded employer, is required to accept and respond to the HIPPAA ANSI standard transaction for the purpose of validating eligibility.**

7. The director of the department shall establish guidelines to assure that the information furnished to any entity or obtained from any entity does not violate the laws pertaining to the confidentiality and privacy of an applicant or **[**recipient of Medicaid**]** **participant receiving MO HealthNet benefits**. Any person disclosing confidential information for purposes other than set forth in this section shall be guilty of a class A misdemeanor.

8. The application for or the receipt of benefits under sections 208.151 to 208.159 and section 208.162 shall be deemed consent by the individual to allow the department to request information from any entity regarding insurance coverage of said person.

208.230. PUBLIC ASSISTANCE BENEFICIARY EMPLOYER DISCLOSURE ACT — REPORT, CONTENT. — 1. This section shall be known and may be cited as the "Public Assistance Beneficiary Employer Disclosure Act".

2. The department of social services is hereby directed to prepare a MO HealthNet beneficiary employer report to be submitted to the governor on a quarterly basis. Such

report shall be known as the "Missouri Health Care Responsibility Report". For purposes of this section, a "MO HealthNet beneficiary" means a person who receives medical assistance from the state of Missouri under this chapter or Titles XIX or XXI of the federal Social Security Act, as amended. To aid in the preparation of the Missouri health care responsibility report, the department shall implement policies and procedures to acquire information required by the report. Such information sources may include, but are not limited to, the following:

(1) Information required at the time of MO HealthNet application or during the yearly reverification process;

(2) Information that is accumulated from a vendor contracting with the state of Missouri to identify available insurance;

(3) Information that is voluntarily submitted by Missouri employers.

3. The Missouri health care responsibility report shall provide the following information for each employer who has fifty or more employees that are a MO HealthNet beneficiary, the spouse of a MO HealthNet beneficiary, or a custodial parent of a MO HealthNet beneficiary:

(1) The name of the qualified employer;

(2) The number of employees who are either MO HealthNet beneficiaries or are a financially responsible spouse or custodial parent of a MO HealthNet beneficiary under Title XIX of the federal Social Security Act, listed as a percentage of the qualified employer's Missouri workforce;

(3) The number of employees who are either MO HealthNet beneficiaries or are a financially responsible spouse or custodial parent of a MO HealthNet beneficiary under Title XXI of the federal Social Security Act (SCHIP), listed as a percentage of the qualified employer's Missouri workforce;

(4) For each employer, the number of employees who are MO HealthNet beneficiaries, the number of employees who are a financially responsible spouse or custodial parent of a MO HealthNet beneficiary and the number of MO HealthNet beneficiaries who are a spouse or a minor child less than nineteen years of age of an employee under Title XIX of the federal Social Security Act;

(5) For each employer, the number of employees who are MO HealthNet beneficiaries, the number of employees who are a financially responsible spouse or a custodial parent of a MO HealthNet beneficiary, and the number of MO HealthNet beneficiaries who are a spouse or a minor child less than nineteen years of age of an employee under Title XXI of the federal Social Security Act;

(6) Whether the reported MO HealthNet beneficiaries are full-time or part-time employees;

(7) Information on whether the employer offers health insurance benefits to full-time and part-time employees, their spouses, and their dependents;

(8) Information on whether employees receive health insurance benefits through the employer when MO HealthNet pays some or all of the premiums for such health insurance benefits;

(9) The cost to the state of Missouri of providing MO HealthNet benefits for the employer's employees and enrolled dependents listed as total cost and per capita cost;

(10) The report shall make industry-wide comparisons by sorting employers into industry categories based on available information from the department of economic development.

4. If it is determined that a MO HealthNet beneficiary has more than one employer, the department of social services shall count the beneficiary as a portion of one person for each employer for purposes of this report.

5. The Missouri health care responsibility report shall be issued one hundred twenty days after the end of each calendar quarter, starting with the first calendar quarter of 2008. The report shall be made available for public viewing on the department of social services web site. Any member of the public shall have the right to request and receive a printed copy of the report published under this section through the department of social services.

208.612. ONE-STOP SHOPPING FOR ELDERLY CITIZENS TO APPLY FOR PROGRAMS. — The departments of social services, mental health, and health **and senior services** shall collaborate in addressing **[**the problems of elderly hunger**]** **common problems of the elderly** by entering into collaborative agreements and protocols with each other, private, public and federal agencies with the intent of creating one-stop shopping for elderly citizens to apply for all programs for which they are entitled. They shall devise one application form that will provide entry to all available elderly services and programs. Any public elderly service agency that commonly serves elderly persons shall make available and provide information relating to the one-stop shopping concept.

208.631. PROGRAM ESTABLISHED, TERMINATES, WHEN — DEFINITIONS. — 1. Notwithstanding any other provision of law to the contrary, the **[**department of social services**]** **MO HealthNet division** shall establish a program to pay for health care for uninsured children. Coverage pursuant to sections 208.631 to **[**208.660**]** **208.659** is subject to appropriation. The provisions of sections 208.631 to **[**208.657**]** **208.569, health care for uninsured children,** shall be void and of no effect **[**after June 30, 2008**]** **if there are no funds of the United States appropriated by Congress to be provided to the state on the basis of a state plan approved by the federal government under the federal Social Security Act**. **If funds are appropriated by the United States Congress, the department of social services is authorized to manage the state children's health insurance program (SCHIP) allotment in order to ensure that the state receives maximum federal financial participation. Children in households with incomes up to one hundred fifty percent of the federal poverty level may meet all Title XIX program guidelines as required by the Centers for Medicare and Medicaid Services. Children in households with incomes of one hundred fifty percent to three hundred percent of the federal poverty level shall continue to be eligible as they were and receive services as they did on June 30, 2007, unless changed by the Missouri general assembly.**

2. For the purposes of sections 208.631 to **[**208.657**]** **208.659**, "children" are persons up to nineteen years of age. "Uninsured children" are persons up to nineteen years of age who are emancipated and do not have access to affordable employer-subsidized health care insurance or other health care coverage or persons whose parent or guardian have not had access to affordable employer-subsidized health care insurance or other health care coverage for their children for six months prior to application, are residents of the state of Missouri, and have parents or guardians who meet the requirements in section 208.636. A child who is eligible for **[**medical assistance**]** **MO HealthNet benefits** as authorized in section 208.151 is not uninsured for the purposes of sections 208.631 to **[**208.657**]** **208.659**.

208.640. CO-PAYMENTS REQUIRED, WHEN, AMOUNT, LIMITATIONS. — **1.** Parents and guardians of uninsured children with incomes **[**between**]** **of more than** one hundred **[**fifty-one and**]** **fifty but less than** three hundred percent of the federal poverty level who do not have access to affordable employer-sponsored health care insurance or other affordable health care coverage may obtain coverage **[**pursuant to**]** **for their children under** this section. **Health insurance plans that do not cover an eligible child's preexisting condition shall not be**

considered affordable employer-sponsored health care insurance or other affordable health care coverage. For the purposes of sections 208.631 to **[**208.657**]** **208.659**, "affordable employer-sponsored health care insurance or other affordable health care coverage" refers to health insurance requiring a monthly premium **[**less than or equal to one hundred thirty-three percent of the monthly average premium required in the state's current Missouri consolidated health care plan**]** **of:**

(1) Three percent of one hundred fifty percent of the federal poverty level for a family of three for families with a gross income of more than one hundred fifty and up to one hundred eighty-five percent of the federal poverty level for a family of three;

(2) Four percent of one hundred eighty-five percent of the federal poverty level for a family of three for a family with a gross income of more than one hundred eighty-five and up to two hundred twenty-five percent of the federal poverty level;

(3) Five percent of two hundred twenty-five percent of the federal poverty level for a family of three for a family with a gross income of more than two hundred twenty-five but less than three hundred percent of the federal poverty level. The parents and guardians of eligible uninsured children pursuant to this section are responsible for a monthly premium **[**equal to the average premium required for the Missouri consolidated health care plan**]** **as required by annual state appropriation**; provided that the total aggregate cost sharing for a family covered by these sections shall not exceed five percent of such family's income for the years involved. No co-payments or other cost sharing is permitted with respect to benefits for well-baby and well-child care including age-appropriate immunizations. Cost-sharing provisions **[**pursuant to**]** **for their children under** sections 208.631 to **[**208.657**]** **208.659** shall not exceed the limits established by 42 U.S.C. Section 1397cc(e). **If a child has exceeded the annual coverage limits for all health care services, the child is not considered insured and does not have access to affordable health insurance within the meaning of this section.**

2. The department of social services shall study the expansion of a presumptive eligibility process for children for medical assistance benefits.

208.659. REVISION OF ELIGIBILITY REQUIREMENTS FOR UNINSURED WOMEN'S HEALTH PROGRAM. — The MO HealthNet division shall revise the eligibility requirements for the uninsured women's health program, as established in 13 CSR Section 70-4.090, to include women who are at least eighteen years of age and with a net family income of at or below one hundred eighty-five percent of the federal poverty level. In order to be eligible for such program, the applicant shall not have assets in excess of two hundred and fifty thousand dollars, nor shall the applicant have access to employer-sponsored health insurance. Such change in eligibility requirements shall not result in any change in services provided under the program.

208.670. PTRACTICE OF TELEHEALTH, RULES — DEFINITIONS. — 1. As used in this section, these terms shall have the following meaning:

(1) "Provider", any provider of medical services and mental health services, including all other medical disciplines;

(2) "Telehealth", the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the practice of telehealth in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth, certification of agencies offering telehealth, and payment for services by providers. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and to ensure confidentiality of medical information.

3. Telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. Reimbursement for such services shall be made in the same way as reimbursement for in-person contacts.

208.690. CITATION OF LAW — DEFINITIONS. — 1. Sections 208.690 to 208.698 shall be known and may be cited as the "Missouri Long-term Care Partnership Program Act".

2. As used in sections 208.690 to 208.698, the following terms shall mean:

(1) "Asset disregard", the disregard of any assets or resources in an amount equal to the insurance benefit payments that are used on behalf of the individual;

(2) "Missouri Qualified Long-term Care Partnership approved policy", a long-term care insurance policy certified by the director of the department of insurance, financial institutions and professional registration as meeting the requirements of:

(a) The National Association of Insurance Commissioners' Long-term Care Insurance Model Act and Regulation as specified in 42 U.S.C. 1917(b); and

(b) The provisions of Section 6021 of the Federal Deficit Reduction Act of 2005.

(3) "MO HealthNet", the medical assistance program established in this state under Title XIX of the federal Social Security Act;

(4) "State plan amendment", the state MO HealthNet plan amendment to the federal Department of Health and Human Services that, in determining eligibility for state MO HealthNet benefits, provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy.

208.692. PROGRAM ESTABLISHED, PURPOSE — ASSET DISREGARD — DEPARTMENTS DUTIES — RULES. — 1. In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005, there is established the Missouri Long-term Care Partnership Program, which shall be administered by the department of social services in conjunction with the department of insurance, financial institutions and professional registration. The program shall:

(1) Provide incentives for individuals to insure against the costs of providing for their long-term care needs;

(2) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under MO HealthNet without first being required to substantially exhaust their resources; and

(3) Alleviate the financial burden to the MO HealthNet program by encouraging the pursuit of private initiatives.

2. Upon payment under a Missouri qualified long-term care partnership approved policy, certain assets of an individual, as provided in subsection 3 of this section, shall be disregarded when determining any of the following:

(1) MO HealthNet eligibility;

(2) The amount of any MO HealthNet payment; and

(3) Any subsequent recovery by the state of a payment for medical services.

3. The department of social services shall:

(1) Within one hundred eighty days of the effective date of sections 208.690 to 208.698, make application to the federal Department of Health and Human Services for a state plan amendment to establish a program that, in determining eligibility for state MO HealthNet benefits, provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy; and

(2) Provide information and technical assistance to the department of insurance, financial institutions and professional registration to assure that any individual who sells a qualified long-term care insurance partnership policy receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

4. The department of social services shall promulgate rules to implement the provisions of sections 208.690 to 208.698. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

208.694. ELIGIBILITY — DISCONTINUANCE OF PROGRAM, EFFECT OF — RECIPROCAL AGREEMENTS. — 1. An individual who is a beneficiary of a Missouri qualified long-term care partnership approved policy is eligible for assistance under MO HealthNet using asset disregard under sections 208.690 to 208.698.

2. If the Missouri long-term care partnership program is discontinued, an individual who purchased a qualified long-term care partnership approved policy prior to the date the program was discontinued shall be eligible to receive asset disregard, as provided by Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005.

3. The department of social services may enter into reciprocal agreements with other states that have asset disregard provisions established under Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005 in order to extend the asset disregard to Missouri residents who purchase long-term care policies in another state.

208.696. DIRECTOR'S DUTIES — RULES. — 1. The director of the department of insurance, financial institutions and professional registration shall:

(1) Develop requirements to ensure that any individual who sells a qualified long-term care insurance partnership policy receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care;

(2) Impose no requirements affecting the terms or benefits of qualified long-term care partnership policies unless the director imposes such a requirement on all long-term care policies sold in this state, without regard to whether the policy is covered under the partnership or is offered in connection with such partnership;

(a) This subsection shall not apply to inflation protection as required under Section 6021(a)(1)(iii)(iv) of the Federal Deficit Reduction Act of 2005;

(b) The inflation protection required for partnership policies, as stated under Section 6021(a)(1)(iii)(iv) of the Federal Deficit Reduction Act of 2005, shall be no less favorable than the inflation protection offered for all long-term care policies under the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Regulation as specified in 42 U.S.C. 1917(b);

(3) Develop a summary notice in clear, easily understood language for the consumer purchasing qualified long-term care insurance partnership policies on the current law pertaining to asset disregard and asset tests; and

(4) Develop requirements to ensure that any individual who exchanges non-qualified long-term care insurance for a qualified long-term care insurance partnership policy receives equitable treatment for time or value gained.

2. The director of the department of insurance, financial institutions and professional registration shall promulgate rules to carry out the provisions of this section, and on the process for certifying the qualified long-term care partnership policies. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

208.698. REPORTS REQUIRED. — The issuers of qualified long-term care partnership policies in this state shall provide regular reports to both the Secretary of the Department of Health and Human Services in accordance with federal law and regulations and to the department of social services and the department of insurance, financial institutions and professional registration as provided in Section 6021 of the Federal Deficit Reduction Act of 2005.

208.750. TITLE — DEFINITIONS. — 1. Sections 208.750 to 208.775 shall be known and may be cited as the "Family Development Account Program".

2. For purposes of sections 208.750 to 208.775, the following terms mean:

(1) "Account holder", a person who is the owner of a family development account;

(2) "Community-based organization", any religious or charitable association formed pursuant to chapter 352, RSMo, **or any nonprofit corporation formed under chapter 355, RSMo,** that is approved by the director of the department of economic development to implement the family development account program;

(3) "Department", the department of economic development;

(4) "Director", the director of the department of economic development;

(5) "Family development account", a financial instrument established pursuant to section 208.760;

(6) "Family development account reserve fund", the fund created by an approved community-based organization for the purposes of funding the costs incurred in the administration of the program and for providing matching funds for moneys in family development accounts;

(7) "Federal poverty level", the most recent poverty income guidelines published in the calendar year by the United States Department of Health and Human Services;

(8) "Financial institution", any bank, trust company, savings bank, credit union or savings and loan association as defined in chapter 362, 369 or 370, RSMo, and with an office in Missouri which is approved by the director for participation in the program;

(9) "Program", the Missouri family development account program established in sections 208.750 to 208.775;

(10) "Program contributor", a person or entity who makes a contribution to a family development account reserve fund and is not the account holder.

208.930. CONSUMER-DIRECTED PERSONAL CARE ASSISTANCE SERVICES, REIMBURSEMENT FOR THROUGH ELIGIBLE VENDORS — ELIGIBILITY REQUIREMENTS — DOCUMENTATION — SERVICE PLAN REQUIRED — PREMIUMS, AMOUNT — ANNUAL REEVALUATION — DENIAL OF BENEFITS, PROCEDURE — EXPIRATION DATE. — 1. As used in this section, the term "department" shall mean the department of health and senior services.

2. Subject to appropriations, the department may provide financial assistance for consumer-directed personal care assistance services through eligible vendors, as provided in sections 208.900 through 208.927, to each person who was participating as a **[**non-Medicaid**] non-MO HealthNet** eligible client pursuant to sections 178.661 through 178.673, RSMo, on June 30, 2005, and who:

(1) Makes application to the department;

(2) Demonstrates financial need and eligibility under subsection 3 of this section;

(3) Meets all the criteria set forth in sections 208.900 through 208.927, except for subdivision (5) of subsection 1 of section 208.903;

(4) Has been found by the department of social services not to be eligible to participate under guidelines established by the **[**Medicaid state**] MO HealthNet** plan; and

(5) Does not have access to affordable employer-sponsored health care insurance or other affordable health care coverage for personal care assistance services as defined in section 208.900. For purposes of this section, "access to affordable employer-sponsored health care insurance or other affordable health care coverage" refers to health insurance requiring a monthly premium less than or equal to one hundred thirty-three percent of the monthly average premium required in the state's current Missouri consolidated health care plan.

Payments made by the department under the provisions of this section shall be made only after all other available sources of payment have been exhausted.

3. (1) In order to be eligible for financial assistance for consumer-directed personal care assistance services under this section, a person shall demonstrate financial need, which shall be based on the adjusted gross income and the assets of the person seeking financial assistance and such person's spouse.

(2) In order to demonstrate financial need, a person seeking financial assistance under this section and such person's spouse must have an adjusted gross income, less disability-related medical expenses, as approved by the department, that is equal to or less than three hundred percent of the federal poverty level. The adjusted gross income shall be based on the most recent income tax return.

(3) No person seeking financial assistance for personal care services under this section and such person's spouse shall have assets in excess of two hundred fifty thousand dollars.

4. The department shall require applicants and the applicant's spouse, and consumers and the consumer's spouse, to provide documentation for income, assets, and disability-related medical expenses for the purpose of determining financial need and eligibility for the program. In addition to the most recent income tax return, such documentation may include, but shall not be limited to:

(1) Current wage stubs for the applicant or consumer and the applicant's or consumer's spouse;

(2) A current W-2 form for the applicant or consumer and the applicant's or consumer's spouse;

(3) Statements from the applicant's or consumer's and the applicant's or consumer's spouse's employers;

(4) Wage matches with the division of employment security;

(5) Bank statements; and

(6) Evidence of disability-related medical expenses and proof of payment.

5. A personal care assistance services plan shall be developed by the department pursuant to section 208.906 for each person who is determined to be eligible and in financial need under the provisions of this section. The plan developed by the department shall include the maximum amount of financial assistance allowed by the department, subject to appropriation, for such services.

6. Each consumer who participates in the program is responsible for a monthly premium equal to the average premium required for the Missouri consolidated health care plan; provided that the total premium described in this section shall not exceed five percent of the consumer's and the consumer's spouse's adjusted gross income for the year involved.

7. (1) Nonpayment of the premium required in subsection 6 shall result in the denial or termination of assistance, unless the person demonstrates good cause for such nonpayment.

(2) No person denied services for nonpayment of a premium shall receive services unless such person shows good cause for nonpayment and makes payments for past-due premiums as well as current premiums.

(3) Any person who is denied services for nonpayment of a premium and who does not make any payments for past-due premiums for sixty consecutive days shall have their enrollment in the program terminated.

(4) No person whose enrollment in the program is terminated for nonpayment of a premium when such nonpayment exceeds sixty consecutive days shall be reenrolled unless such person pays any past-due premiums as well as current premiums prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument.

8. (1) Consumers determined eligible for personal care assistance services under the provisions of this section shall be reevaluated annually to verify their continued eligibility and financial need. The amount of financial assistance for consumer-directed personal care assistance services received by the consumer shall be adjusted or eliminated based on the outcome of the reevaluation. Any adjustments made shall be recorded in the consumer's personal care assistance services plan.

(2) In performing the annual reevaluation of financial need, the department shall annually send a reverification eligibility form letter to the consumer requiring the consumer to respond within ten days of receiving the letter and to provide income and disability-related medical expense verification documentation. If the department does not receive the consumer's response and documentation within the ten-day period, the department shall send a letter notifying the consumer that he or she has ten days to file an appeal or the case will be closed.

(3) The department shall require the consumer and the consumer's spouse to provide documentation for income and disability-related medical expense verification for purposes of the eligibility review. Such documentation may include but shall not be limited to the documentation listed in subsection 4 of this section.

9. (1) Applicants for personal care assistance services and consumers receiving such services pursuant to this section are entitled to a hearing with the department of social services if eligibility for personal care assistance services is denied, if the type or amount of services is set at a level less than the consumer believes is necessary, if disputes arise after preparation of the personal care assistance plan concerning the provision of such services, or if services are discontinued as provided in section 208.924. Services provided under the provisions of this section shall continue during the appeal process.

(2) A request for such hearing shall be made to the department of social services in writing in the form prescribed by the department of social services within ninety days after the mailing or delivery of the written decision of the department of health and senior services. The procedures for such requests and for the hearings shall be as set forth in section 208.080.

10. Unless otherwise provided in this section, all other provisions of sections 208.900 through 208.927 shall apply to individuals who are eligible for financial assistance for personal care assistance services under this section.

11. The department may promulgate rules and regulations, including emergency rules, to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536,

RSMo, and, if applicable, section 536.028, RSMo. Any provisions of the existing rules regarding the personal care assistance program promulgated by the department of elementary and secondary education in title 5, code of state regulations, division 90, chapter 7, which are inconsistent with the provisions of this section are void and of no force and effect.

12. The provisions of this section shall expire on June 30, [2008] **2019**.

208.950. PLANS REQUIRED — PARTICIPANT ENROLLMENT — SURVEY TO ASSESS HEALTH AND WELLNESS OUTCOMES — HEALTH RISK ASSESSMENTS REQUIRED. — 1. The department of social services shall, with the advice and approval of the Mo HealthNet oversight committee established under section 208.955, create health improvement plans for all participants in Mo HealthNet. Such health improvement plans shall include but not be limited to, risk-bearing coordinated care plans, administrative services organizations, and coordinated fee-for-service plans. Development of the plans and enrollment into such plans shall begin July 1, 2008, and shall be completed by July 1, 2011, and shall take into account the appropriateness of enrolling particular participants into the specific plans and the time line for enrollment. For risk-bearing care coordination plans and administrative services organization plans, the contract shall require that the contracted per diem be reduced or other financial penalty occur if the quality targets specified by the department are not met. For purposes of this section, "quality targets specified by the department" shall include, but not be limited to, rates at which participants whose care is being managed by such plans seek to use hospital emergency department services for nonemergency medical conditions.

2. Every participant shall be enrolled in a health improvement plan and be provided a health care home. All health improvement plans are required to help participants remain in the least restrictive level of care possible, use domestic-based call centers and nurse help lines, and report on participant and provider satisfaction information annually. All health improvement plans shall use best practices that are evidence-based. The department of social services shall evaluate and compare all health improvement plans on the basis of cost, quality, health improvement, health outcomes, social and behavioral outcomes, health status, customer satisfaction, use of evidence-based medicine, and use of best practices and shall report such findings to the oversight committee.

3. When creating a health improvement plan for participants, the department shall ensure that the rules and policies are promulgated consistent with the principles of transparency, personal responsibility, prevention and wellness, performance-based assessments, and achievement of improved health outcomes, increasing access, and cost-effective delivery through the use of technology and coordination of care.

4. No provisions of any state law shall be construed as to require any aged, blind, or disabled person to enroll in a risk-bearing coordination plan.

5. The department of social services shall, by July 1, 2008, commission an independent survey to assess health and wellness outcomes of MO HealthNet participants by examining key health care delivery system indicators, including but not limited to disease-specific outcome measures, provider network demographic statistics including but not limited to the number of providers per unit population broken down by specialty, subspecialty, and multi-disciplinary providers by geographic areas of the state in comparison side-by-side with like indicators of providers available to the state-wide population, and participant and provider program satisfaction surveys. In counting the number of providers available, the study design shall use a definition of provider availability such that a provider that limits the number of MO HealthNet recipients seen in a unit of time is counted as a partial provider in the determination of availability. The department may contract with another organization in order to complete the survey, and shall give preference to Missouri-based organizations. The results of the study shall be

completed within six months and be submitted to the general assembly, the governor, and the oversight committee.

6. The department of social services shall engage in a public process for the design, development, and implementation of the health improvement plans and other aspects of MO HealthNet. Such public process shall allow for but not be limited to input from consumers, health advocates, disability advocates, providers, and other stakeholders.

7. By July 1, 2008, all health improvement plans shall conduct a health risk assessment for enrolled participants and develop a plan of care for each enrolled participant with health status goals achievable through healthy lifestyles, and appropriate for the individual based on the participant's age and the results of the participant's health risk assessment.

8. For any necessary contracts related to the purchase of products or services required to administer the MO HealthNet program, there shall be competitive requests for proposals consistent with state procurement policies of chapter 34, RSMo, or through other existing state procurement processes specified in chapter 630, RSMo.

208.952. COMMITTEE ESTABLISHED, MEMBERS, RECOMMENDATIONS. — 1. There is hereby established the "Joint Committee on MO HealthNet". The committee shall have as its purpose the study of the resources needed to continue and improve the MO HealthNet program over time. The committee shall consist of ten members:

(1) The chair and the ranking minority member of the house committee on the budget;

(2) The chair and the ranking minority member of the senate committee on appropriations committee;

(3) The chair and the ranking minority member of the house committee on appropriations for health, mental health, and social services;

(4) The chair and the ranking minority member of the senate committee on health and mental health;

(5) A representative chosen by the speaker of the house of representatives; and

(6) A senator chosen by the president pro tem of the senate.

No more than three members from each house shall be of the same political party.

2. A chair of the committee shall be selected by the members of the committee.

3. The committee shall meet as necessary.

4. Nothing in this section shall be construed as authorizing the committee to hire employees or enter into any employment contracts.

5. The committee shall receive and study the five-year rolling MO HealthNet budget forecast issued annually by the legislative budget office.

6. The committee shall make recommendations in a report to the general assembly by January first each year, beginning in 2008, on anticipated growth in the MO HealthNet program, needed improvements, anticipated needed appropriations, and suggested strategies on ways to structure the state budget in order to satisfy the future needs of the program.

208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of eighteen members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative;

(4) Two primary care physicians, licensed under chapter 334, RSMo, recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state, who care for participants, not from the same geographic area;

(5) Two physicians, licensed under chapter 334, RSMo, who care for participants but who are not primary care physicians and are not from the same geographic area, recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state;

(6) One representative of the state hospital association;

(7) One nonphysician health care professional who cares for participants, recommended by the director of the department of insurance, financial institutions and professional registration;

(8) One dentist, who cares for participants. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state;

(9) Two patient advocates;

(10) One public member; and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvements plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950, so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or the disabled, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253, RSMo, shall not apply to sections 208.950 to 208.955.

208.975. FUND CREATED, USE OF MONEYS — RULES. — 1. There is hereby created in the state treasury the "Health Care Technology Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The fund shall be administered by the department of social services in accordance with the recommendations of the MO HealthNet oversight committee unless otherwise specified by the general assembly. Moneys in the fund shall be distributed in accordance with specific appropriation by the general assembly. The director of the department of social services shall submit his or her recommendations for the disbursement of the funds to the governor and the general assembly.

2. Subject to the recommendations of the MO HealthNet oversight committee under section 208.978 and subsection 1 of this section, moneys in the fund shall be used to promote technological advances to improve patient care, decrease administrative burdens, increase access to timely services, and increase patient and health care provider satisfaction. Such programs or improvements on technology shall include encouragement and implementation of technologies intended to improve the safety, quality, and costs of health care services in the state, including but not limited to the following:

(1) Electronic medical records;

(2) Community health records;

(3) Personal health records;

(4) E-prescribing;

(5) Telemedicine;

(6) Telemonitoring; and

(7) Electronic access for participants and providers to obtain MO HealthNet service authorizations.

3. Prior to any moneys being appropriated or expended from the healthcare technology fund for the programs or improvements listed in subsection 2 of this section, there shall be competitive requests for proposals consistent with state procurement policies of chapter 34, RSMo. After such process is completed, the provisions of subsection 1 of this section relating to the administration of fund moneys shall be effective.

4. For purposes of this section, "elected public official or any state employee" means a person who holds an elected public office in a municipality, a county government, a state government, or the federal government, or any state employee, and the spouse of either such person, and any relative within one degree of consanguinity or affinity of either such person.

5. Any amounts appropriated or expended from the healthcare technology fund in violation of this section shall be remitted by the payee to the fund with interest paid at the rate of one percent per month. The attorney general is authorized to take all necessary action to enforce the provisions of this section, including but not limited to obtaining an order for injunction from a court of competent jurisdiction to stop payments from being made from the fund in violation of this section.

6. Any business or corporation which receives moneys expended from the healthcare technology fund in excess of five hundred thousand dollars in exchange for products or services and, during a period of two years following receipt of such funds, employs or contracts with any current or former elected public official or any state employee who had any direct decision-making or administrative authority over the awarding of healthcare technology fund contracts or the disbursement of moneys from the fund shall be subject to the provisions contained within subsection 5 of this section. Employment of or contracts with any current or former elected public official or any state employee which commenced prior to May 1, 2007, shall be exempt from these provisions.

7. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund, except for moneys that were gifts, donations, or bequests.

8. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

9. The MO HealthNet division shall promulgate rules setting forth the procedures and methods implementing the provisions of this section and establish criteria for the disbursement of funds under this section to include but not be limited to grants to community health networks that provide the majority of care provided to MO HealthNet and low-income uninsured individuals in the community, and preference for health care entities where the majority of the patients and clients served are either participants of MO HealthNet or are from the medically underserved population. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

208.978. REPORT ON FUND — RECOMMENDATIONS — EXPIRATION DATE. — 1. The MO HealthNet oversight committee shall develop and report upon recommendations to be delivered to the governor and general assembly relating to the expenditure of funds appropriated to the healthcare technology fund established under section 208.975.

2. Recommendations from the committee shall include an analysis and review, including but not limited to the following:

(1) Reviewing the current status of healthcare information technology adoption by the healthcare delivery system in Missouri;

(2) Addressing the potential technical, scientific, economic, security, privacy, and other issues related to the adoption of interoperable healthcare information technology in Missouri;

(3) Evaluating the cost of using interoperable healthcare information technology by the healthcare delivery system in Missouri;

(4) Identifying private resources and public/private partnerships to fund efforts to adopt interoperable healthcare information technology;

(5) Exploring the use of telemedicine as a vehicle to improve healthcare access to Missourians;

(6) Identifying methods and requirements for ensuring that not less than ten percent of appropriations within a single fiscal year shall be directed toward the purpose of expanding and developing minority owned businesses that deliver technological enhancements to healthcare delivery systems and networks;

(7) Developing requirements to be recommended to the general assembly that ensure not more than twenty-five percent of appropriations from the healthcare technology fund in any fiscal year shall be contractually awarded to a single entity;

(8) Developing requirements to be recommended to the general assembly that ensure the number of contractual awards provided from the healthcare technology fund shall not be fewer than the number of congressional districts within Missouri; and

(9) Recommending best practices or policies for state government and private entities to promote the adoption of interoperable healthcare information technology by the Missouri healthcare delivery system.

3. The committee shall make and report its recommendations to the governor and general assembly on or before January 1, 2008.

4. This section shall expire on April 15, 2008.

473.398. RECOVERY OF PUBLIC ASSISTANCE FUNDS FROM RECIPIENT'S ESTATE, WHEN AUTHORIZED — PROCEDURE — EXCEPTIONS. — 1. Upon the death of a person, who has been a **[**recipient**]** **participant** of aid, assistance, care, services, or who has had moneys expended on his behalf by the department of health and senior services, department of social services, or the department of mental health, or by a county commission, the total amount paid to the decedent or expended upon his behalf after January 1, 1978, shall be a debt due the state or county, as the case may be, from the estate of the decedent. The debt shall be collected as provided by the probate code of Missouri, chapters 472, 473, 474 and 475, RSMo.

2. Procedures for the allowance of such claims shall be in accordance with this chapter, and such claims shall be allowed as a claim of the seventh class under subdivision (7) of section 473.397.

3. Such claim shall not be filed or allowed if it is determined that:

(1) The cost of collection will exceed the amount of the claim;

(2) The collection of the claim will adversely affect the need of the surviving spouse or dependents of the decedent to reasonable care and support from the estate.

4. Claims consisting of moneys paid on the behalf of a **[**recipient**]** **participant** as defined in 42 U.S.C. 1396 shall be allowed, except as provided in subsection 3 of this section, upon the showing by the claimant of proof of moneys expended. Such proof may include but is not limited to the following items which are deemed to be competent and substantial evidence of payment:

(1) Computerized records maintained by any governmental entity as described in subsection 1 of this section of a request for payment for services rendered to the **[**recipient**]** **participant**; and

(2) The certified statement of the treasurer or his designee that the payment was made.

5. The provisions of this section shall not apply to any claims, adjustments or recoveries specifically prohibited by federal statutes or regulations duly promulgated thereunder. Further, the federal government shall receive from the amount recovered any portion to which it is entitled.

6. Before any probate estate may be closed under this chapter, with respect to a decedent who, at the time of death, was enrolled in MO HealthNet, the personal representative of the estate shall file with the clerk of the court exercising probate

jurisdiction a release from the MO HealthNet division evidencing payment of all MO HealthNet benefits, premiums, or other such costs due from the estate under law, unless waived by the MO HealthNet division.

SECTION 1. LEGISLATIVE BUDGET OFFICE TO CONDUCT FORECAST, ITEMS TO BE INCLUDED. — 1. Pursuant to section 33.803, RSMo, by January 1, 2008, and each January first thereafter, the legislative budget office shall annually conduct a rolling five-year MO HealthNet forecast. The forecast shall be issued to the general assembly, the governor, the joint committee on MO HealthNet, and the oversight committee established in section 208.955, RSMo. The forecast shall include, but not be limited to, the following, with additional items as determined by the legislative budget office:

(1) The projected budget of the entire MO HealthNet program;

(2) The projected budgets of selected programs within MO HealthNet;

(3) Projected MO HealthNet enrollment growth, categorized by population and geographic area;

(4) Projected required reimbursement rates for MO HealthNet providers; and

(5) Projected financial need going forward.

2. In preparing the forecast required in subsection 1 of this section, where the MO HealthNet program overlaps more than one department or agency, the legislative budget office may provide for review and investigation of the program or service level on an interagency or interdepartmental basis in an effort to review all aspects of the program.

SECTION 2. PSYCHOTROPIC MEDICATIONS, ACCESS TO. — Fee for service eligible policies for prescribing psychotropic medications shall not include any new limits to initial access requirements, except dose optimization or new drug combinations consisting of one or more existing drug entities or preference algorithms for SSRI antidepressants, for persons with mental illness diagnosis, or other illnesses for which treatment with psychotropic medications are indicated and the drug has been approved by the federal Food and Drug Administration for at least one indication and is a recognized treatment in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature and deemed medically appropriate for a diagnosis. No restrictions to access shall be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression.

SECTION 3. REQUEST FOR PROPOSALS — For purposes of a request for proposal for health improvement plans, there shall be a request for proposal for at least six regions in the state, however in no case shall there be a single state-wide contract. Counties with a risk-bearing care coordination plan as of July 1, 2007, shall continue as risk-bearing care coordination plans for the categories of aid in such program as of July 1, 2007. Nothing in sections 208.950 and 208.955, RSMo, shall be construed to void a chronic care improvement plan contract existing on August 28, 2007.

[208.014. MEDICAID REFORM COMMISSION ESTABLISHED, MEMBERS, REIMBURSEMENT FOR EXPENSES, MEETINGS, CONSULTANTS, RECOMMENDATIONS. — 1. There is hereby established the "Medicaid Reform Commission". The commission shall have as its purpose the study and review of recommendations for reforms of the state Medicaid system. The commission shall consist of ten members:

(1) Five members of the house of representatives appointed by the speaker; and

(2) Five members of the senate appointed by the pro tem. No more than three members from each house shall be of the same political party. The directors of the department of social

services, the department of health and senior services, and the department of mental health or the directors' designees shall serve as ex officio members of the commission.

2. Members of the commission shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties.

3. A chair of the commission shall be selected by the members of the commission.

4. The commission shall meet as necessary.

5. The commission is authorized to contract with a consultant. The compensation of the consultant and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor.

6. The commission shall make recommendations in a report to the general assembly by January 1, 2006, on reforming, redesigning, and restructuring a new, innovative state Medicaid healthcare delivery system under Title XIX, Public Law 89-97, 1965, amendments to the federal Social Security Act (42 U.S.C. Section 30 et. seq.) as amended, to replace the current state Medicaid system under Title XIX, Public Law 89-97, 1965, amendments to the federal Social Security Act (42 U.S.C. Section 30, et seq.), which shall sunset on June 30, 2008.**]**

[208.755. FAMILY DEVELOPMENT ACCOUNT PROGRAM ESTABLISHED — PROPOSALS, CONTENT — DEPARTMENT — DUTIES — RULEMAKING AUTHORITY. — 1. There is hereby established within the department of economic development a program to be known as the "Family Development Account Program". The program shall provide eligible families and individuals with an opportunity to establish special savings accounts for moneys which may be used by such families and individuals for education, home ownership or small business capitalization.

2. The department shall solicit proposals from community-based organizations seeking to administer the accounts on a not-for-profit basis. Community-based organization proposals shall include:

(1) A requirement that the individual account holder or the family of an account holder match the contributions of a community-based organization member by contributing cash;

(2) A process for including account holders in decision making regarding the investment of funds in the accounts;

(3) Specifications of the population or populations targeted for priority participation in the program;

(4) A requirement that the individual account holder or the family of an account holder attend economic literacy seminars;

(5) A process for including economic literacy seminars in the family development account program; and

(6) A process for regular evaluation and review of family development accounts to ensure program compliance by account holders.

3. In reviewing the proposals of community-based organizations, the department shall consider the following factors:

(1) The not-for-profit status of such organization;

(2) The fiscal accountability of the community-based organization;

(3) The ability of the community-based organization to provide or raise moneys for matching contributions;

(4) The ability of the community-based organization to establish and administer a reserve fund account which shall receive all contributions from program contributors; and

(5) The significance and quality of proposed auxiliary services, including economic literacy seminars, and their relationship to the goals of the family development account program.

4. No more than [twenty**] fifteen** percent of all funds in the reserve fund account may be used for administrative costs of the program in each of the first two years of the program, and

no more than **[**fifteen**]** **ten** percent of such funds may be used for administrative costs for any subsequent year. Funds deposited by account holders shall not be used for administrative costs.

5. The department shall promulgate rules and regulations to implement and administer the provisions of sections 208.750 to 208.775. No rule or portion of a rule promulgated pursuant to the authority of sections 208.750 to 208.775 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**]**

[660.546. PRIVATE INSURANCE AND MEDICAID FUNDS TO FINANCE LONG-TERM CARE — PURCHASE OF POLICY IN AMOUNT COMMENSURATE WITH RESOURCES, DEFINED BY MEDICAID, RESOURCES EQUAL TO PAYMENT NOT TO AFFECT ELIGIBILITY FOR MEDICAID OR STATE'S RIGHT OF RECOVERY, WHEN — DEFINITION OF ESTATE EXPANDED, WHEN. — 1. The department of social services shall coordinate a program entitled the "Missouri Partnership for Long-term Care" whereby private insurance and Medicaid funds shall be combined to finance long-term care. Under such program, an individual may purchase a precertified long-term care insurance policy in an amount commensurate with his resources as defined pursuant to the Medicaid program. Notwithstanding any provision of law to the contrary, the resources of such an individual, to the extent such resources are equal to the amount of long-term care insurance benefit payments as provided in section 660.547, shall not be considered by the department of social services in a determination of:

(1) His eligibility for Medicaid;

(2) The amount of any Medicaid payment. Any subsequent recovery of a payment for medical services by the state shall be as provided by federal law.

2. Notwithstanding any provision of law to the contrary, for purposes of recovering any medical assistance paid on behalf of an individual who was allowed an asset or resource disregard based on such long-term care insurance policy, the definition of estate shall be expanded to include any other real or personal property and other assets in which the individual has any legal title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.**]**

[660.547. WAIVERS FROM FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PRESERVE RESOURCES FOR PURCHASE OF LONG-TERM CARE POLICY — PAYMENTS MADE FOR POLICY TO BE CONSIDERED EXPENDITURE OF RESOURCES — REQUIREMENTS. — The department of social services shall request appropriate waiver or waivers from the Secretary of the federal Department of Health and Human Services to permit the use of long-term care insurance for the preservation of resources pursuant to section 660.546. Such preservation shall be provided, to the extent approved by the federal Department of Health and Human Services, for any purchaser of a precertified long-term care insurance policy delivered, issued for delivery or renewed within five years after receipt of the federal approval of the waiver, and shall continue for the life of the original purchaser of the policy, provided that he maintains his obligations pursuant to the precertified long-term care insurance policy. Insurance benefit payments made on behalf of a claimant, for payment of services which would be covered under section 208.152, RSMo, shall be considered to be expenditures of resources as required under chapter 208, RSMo, for eligibility for medical assistance to the extent that such payments are:

(1) For services Medicaid approves or covers for its recipients;

(2) In an amount not in excess of the charges of the health services provider;

(3) For nursing home care, or formal services delivered to insureds in the community as part of a care plan approved by a coordination, assessment and monitoring agency licensed pursuant to chapter 198, RSMo; and

(4) For services provided after the individual meets the coverage requirements for long-term care benefits established by the department of social services for this program. The director of the department of social services shall adopt regulations in accordance with chapter 536, RSMo, to implement the provisions of sections 660.546 to 660.557, relating to determining eligibility of applicants for Medicaid and the coverage requirements for long-term care benefits.**]**

[660.549. OUTREACH PROGRAM TO EDUCATE CONSUMERS, INCLUDING FINANCING AND ASSET PROTECTION. — The department of social services shall establish an outreach program to educate consumers to:

(1) The mechanisms for financing long-term; and

(2) The asset protection provided under sections 660.546 to 660.557.**]**

[660.551. DEPARTMENT OF INSURANCE TO PRECERTIFY LONG-TERM INSURANCE POLICIES — NO POLICY TO BE PRECERTIFIED WITH PROHIBITED REQUIREMENTS — RULES. — 1. The department of insurance shall precertify long-term care insurance policies which are issued by insurers who, in addition to complying with other relevant laws and regulations:

(1) Alert the purchaser to the availability of consumer information and public education provided by the division of aging and the department of insurance pursuant to sections 660.546 to 660.557;

(2) Offer the option of home- and community-based services in lieu of nursing home care;

(3) Offer automatic inflation protection or optional periodic per diem upgrades until the insured begins to receive long-term care benefits; provided, however, that such inflation protection or upgrades shall not be required of life insurance policies or riders containing accelerated long-term care benefits;

(4) Provide for the keeping of records and an explanation of benefits reports to the insured and the department of insurance on insurance payments which count toward Medicaid resource exclusion; and

(5) Provide the management information and reports necessary to document the extent of Medicaid resource protection offered and to evaluate the Missouri partnership for long-term care including, but not limited to, the information listed in section 660.553.

Included among those policies precertified under this section shall be life insurance policies which offer long-term care either by rider or integrated into the life insurance policy.

2. No policy shall be precertified pursuant to sections 660.546 to 660.557, if it requires prior hospitalization or a prior stay in a nursing home as a condition of providing benefits.

3. The department of insurance may adopt regulations to carry out the provisions of sections 660.546 to 660.557.**]**

[660.553. DEPARTMENT OF INSURANCE TO PROVIDE OUTREACH PROGRAM TO EDUCATE CONSUMERS. — The department of insurance shall provide public information to assist individuals in choosing appropriate insurance coverage, and shall establish an outreach program to educate consumers as to:

(1) The need for long-term; and

(2) The availability of long-term care insurance.**]**

[660.555. DEPARTMENT TO REPORT TO DEPARTMENT OF SOCIAL SERVICES, CONTENT. — The director of the department of insurance each year, on January first shall report in writing to the department of social services the following information:

(1) The success in implementing the provisions of sections 660.546 to 660.557;

(2) The number of policies precertified pursuant to sections 660.546 to 660.557;

(3) The number of individuals filing consumer complaints with respect to precertified policies; and

(4) The extent and type of benefits paid, in the aggregate, under such policies that could count toward Medicaid resource protection.**]**

[660.557. DIRECTOR OF DEPARTMENT OF SOCIAL SERVICES TO REQUEST FEDERAL APPROVAL OF PROGRAM — REPORT TO GENERAL ASSEMBLY, WHEN. — The director of the department of social services shall request the federal approvals necessary to carry out the purposes of sections 660.546 to 660.557. Each year on January first, the director of the department of social services shall report in writing to the general assembly on the progress of the program. Such report will include, but not be limited to:

(1) The success in implementing the provisions of sections 660.546 to 660.557;

(2) The number of policies precertified pursuant to sections 660.546 to 660.557;

(3) The number of individuals filing consumer complaints with respect to precertified policies;

(4) The extent and type of benefits paid, in the aggregate, under such policies that could count toward Medicaid resource protection;

(5) Estimates of impact on present and future Medicaid expenditures;

(6) The cost effectiveness of the program; and

(7) A recommendation regarding the appropriateness of continuing the program.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that the youth aging out of foster care are able to obtain services, the repeal and reenactment of section 208.151 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 208.151 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 2, 2007

SB 591 [SS SCS SB 591]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to credit union membership expansion

AN ACT to repeal sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, and to enact in lieu thereof six new sections relating to credit unions.

SECTION

A. Enacting clause.
370.005. Definitions.
370.071. Additional powers of a credit union — membership fee allowed, when.
370.080. Membership of credit union, membership shares not to be pledged as security for loans.
370.081. Merger and consolidation of credit unions — additional member groups and geographic areas — appeals.
370.082. Retroactive applicability.
370.088. Branches required to be located in geographic area of the credit union.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 370.005, 370.071, 370.080, 370.081, and 370.082, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 370.005, 370.071, 370.080, 370.081, 370.082, and 370.088, to read as follows:

370.005. DEFINITIONS. — **[**As used in this chapter, the term "director" means the director of the division of credit unions of the department of economic development.**] As used in sections 370.005 to 370.400, the following terms mean:**

(1) "Credit union", a not-for-profit corporation organized for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, providing for the mutual benefit and general welfare of its members with the earnings, savings, benefits, and services being distributed to its members, for financial and financially-related services, and for an opportunity for its members to improve their economic and social conditions;

(2) "Director", the director of the division of credit unions.

370.071. ADDITIONAL POWERS OF A CREDIT UNION — MEMBERSHIP FEE ALLOWED, WHEN. — A credit union may have the following additional powers:

(1) To contract for group insurance plans, approved by the state of Missouri, on behalf of members electing to participate in such insurance programs and to charge a fee for providing such services;

(2) To exercise such additional powers, with the approval of the director, as federally chartered credit unions may be authorized under federal statutes; **however, this section shall not apply to field of membership provisions within this chapter;**

(3) To hold membership in central credit unions whose field of membership includes credit unions, and to invest funds in shares of corporations to aid the liquidity of credit unions;

(4) To act as the fiscal or transfer agent of the United States, of any state, municipality, or political subdivision and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(5) Notwithstanding any other law to the contrary, a credit union may charge initial and/or recurring membership fees, provided such fees have been approved by a majority of the membership in attendance at any regular or special meeting or by a mail ballot as provided in the credit union bylaws, after notice of the purpose thereof shall have been mailed at least seven days and no longer than sixty days prior to the date of such meeting. Such membership fees shall not be construed as reserve income but shall be used at the sole discretion of the board of directors for the benefit of the credit union.

370.080. MEMBERSHIP OF CREDIT UNION, MEMBERSHIP SHARES NOT TO BE PLEDGED AS SECURITY FOR LOANS. — 1. The membership shall consist of the organizers and such persons, societies, associations, copartnerships and corporations as have been duly elected to membership and have subscribed to one or more general shares, or one membership share and/or membership fee when required, and have paid for the same in the whole or in part, with the entrance fee as required by the bylaws, and have complied with such other requirements as the certificate of organization may contain.

2. A credit union shall be composed of one or more groups of persons. The members of each such individual group must share:

(1) A common occupation, association, employer or;

(2) **[**A credit union may include those persons who reside or work in a well-defined local neighborhood, community or rural district as such terms are defined by the commission.**] A geographic area which may include all those persons who reside or work in a city not within a county or a county, in which the main office of the credit union is located as reported on the National Credit Union Administration (NCUA) 2006 year-end 5300 call report, and counties contiguous to such areas as may be approved by the director. The director shall not allow a geographic area credit union to expand beyond counties contiguous to a city not within a county or a county in which its main office is located.**

The director shall not allow a credit union to expand its geographic area due to a relocation of the credit union's main office.

3. No individual shall be eligible for membership in a credit union on the basis of the relationship of such individual to another person who is eligible for membership in such credit union unless the individual is a member of the immediate family or household, as such terms are defined by the commission, of such person. Except as provided in section 370.340, once a person becomes a member of a credit union in accordance with this chapter, such person or organization may remain a member of such credit union until the person or organization chooses to withdraw from the membership of the credit union.

4. Each credit union may, at the option of the board, create one or more classes of shares which shall be known as "membership share" representing the member's ownership interest in the credit union on such terms and conditions as the board of directors may determine, not inconsistent with the bylaws, provided that each membership share shall have a par value of not less than twenty-five nor more than one hundred dollars. A membership share shall not be pledged as security on any loan.

5. Notwithstanding any other provisions of this chapter to the contrary, in the event of liquidation of the assets of the credit union, the membership share shall be at risk, uninsured, and shall be subordinated to the claims of all nonmembers and participate in the assets of the credit union after all creditors and holders of all other shares, and the National Credit Union Administration.

370.081. MERGER AND CONSOLIDATION OF CREDIT UNIONS — ADDITIONAL MEMBER GROUPS AND GEOGRAPHIC AREAS — APPEALS. — 1. A credit union may add to its membership additional groups or geographic areas that comply with the provisions of subsection 2 of section 370.080 if the credit union meets the criteria set forth in this section.

2. Except as provided in subdivisions (1) **[**and**],** (2)**, and (3)** of this subsection, **[**each state chartered credit union shall be subject to limitations on groups of members that are no less restrictive than those applicable to federally chartered credit unions under federal laws and regulations, as such limitations are amended or added from time to time, they shall be applicable to each state chartered credit union, and in the absence of federal law or regulation relating to the size of membership groups, only groups with fewer than three thousand members shall be eligible to be included in the credit union's field of membership;**] only employer groups with fewer than three thousand members shall be eligible to be included in the credit union's field of membership,** unless:

(1) Any **employer** group which the commission determines, in writing and in accordance with the guidelines it has set forth, could not feasibly or reasonably establish a new single common-bond credit union because:

(a) The **employer** group lacks sufficient volunteer or other resources to support the efficient and effective operation of a credit union;

(b) The **employer** group does not meet the criteria which the commission has determined to be important for the likelihood of success in establishing and maintaining a new credit union;

(c) The **employer** group would be unlikely to operate a safe and sound credit union;

(2) **[**Any groups transferred from another credit union in connection with a merger or consolidation approved by the director of the division of credit unions or in the director's capacity as conservator or liquidating agent with respect to such credit unions**] The groups are involved in an involuntary merger or when the director acts as a conservator or liquidating agent; or**

(3) The groups are transferred from another credit union in connection with a merger or consolidation approved by the director, provided when making this determination the director shall:

(a) Determine whether the service area of the merging credit union is contiguous to the area served by the continuing credit union;

(b) Assess the breadth of the service area of the combined credit unions;

(c) Assess the ability of the continuing credit union to serve the combined area; and

(d) Assess the number of voluntary mergers the acquiring credit union has requested, or received approval for, during the five-year period preceding the proposed merger. The director shall not permit state-chartered credit unions to merge without a thorough assessment by the director that the combined field of membership is consistent with this chapter and is reasonable in terms of size, service area, and geographic location.

3. Notwithstanding subsection 2 of section 370.080, the director of the division of credit unions may allow the membership of a credit union serving groups of occupation, association or employer, to include any person within a **[**community, neighborhood or rural district,**]** **proximate geographic area** if:

(1) Such an area meets the definition of a low-income or underserved community as defined by the credit union commission or the National Credit Union Administration;

(2) A merger or consolidation has been approved by the director of the division of credit unions which involves any **[**community charter**]** **geographic area** credit union.

4. The credit union may apply and receive approval from the director of the division of credit unions to include the proposed new **occupation, employer, or association** groups or geographic areas in the credit union's membership. In the case of a new credit union application, the organizers of such credit union as provided in subsection 1 of section 370.080 shall specify the membership group selected as provided in subsection 2 of section 370.080. If an existing credit union applies for a field of membership expansion, such credit union shall select either a **[**community group or another**]** **geographic area or occupation, employer, or association** group as provided in subsection 2 of section 370.080 which shall be binding for all future expansions. **When a credit union serving occupation, association, or employer groups has converted to a geographic area credit union, that credit union shall not accept as members new groups that are headquartered outside the geographic area of the credit union, or new employees or new members of those groups who work or reside outside the geographic area of the credit union.** Upon receipt of an application from a credit union to include a new group or new geographic area in its membership, **and no later than five business days after an application has been received,** the director **[**of the division of credit unions**]** shall cause notice of the application to be published in the **[**Missouri Register**]** **division's electronic bulletin and sent electronically to any party who has requested notification of such applications**. From the date such notice is published, there shall be a ten-business-day comment period during which any person or entity desiring to do so may comment on such proposal in writing. Comments received shall become a part of the credit union's application file, subject to public inspection and copying. Within ten days after the comment period ends, the director of the division of credit unions shall issue a decision either granting or rejecting the credit union's application and stating the reasons therefor. In addition to any other requirements required by law or rule, prior to granting the application, the director of the division of credit unions shall **[**make the following findings**]** **determine that**:

(1) The credit union has the immediate ability to serve the additional group or geographic area**[**; and**]**. **In making this determination, the director shall consider the data required to be reported on an annual basis by the state-chartered credit unions that includes aggregated information about the census tracts in which members reside, the actual or estimated annual income of members, and types and numbers of loans or extensions of credit for which members received approval. For the purposes of this section, the term "member data" shall mean information on the income levels of credit union members that credit unions are required to report; provided, however, that no member data includes**

the names, account numbers, or taxpayer identification numbers. In the event that the National Credit Union Administration (NCUA) has a regulation on member data reporting requirements, the state annual member data report shall be made consistent with NCUA reporting requirements. The director shall determine the non-proprietary data to be included in the annual member data report which shall be made available to the public.

(2) **[**The proposed additional group or geographic area meets the requirements of subsection 2 of section 370.080. The director of the division of credit unions shall cause the decision, along with the findings, to be published in the Missouri Register.**] No later than five business days after an expansion or merger has been granted, the director shall cause the decision and findings to be published in the division's electronic bulletin and sent electronically to any party who has requested notification of such actions.**

5. Within fifteen days after the decision is published **[**in the Missouri Register**]**, any person or entity **[**claiming to be adversely affected**] with an interest different from that of a member of the general public, upon establishing that such person or entity may be aggrieved based upon competent and substantial evidence of potential actual damages,** shall have the right to contest the decision by appealing the decision to the credit union commission utilizing the procedure as set out in section 370.063. If the commission finds that the decision or the findings of the director of the division of credit unions was arbitrary and capricious or not based on evidence in the director's possession, the commission shall set aside the findings and decision of the director of the division of credit unions and enter its own findings and decision. Any party **[**who is aggrieved by a final decision of the commission entered pursuant to this subsection and**] in the proceeding before the commission** who has exhausted all administrative remedies provided by law may appeal the decision to the circuit court of Cole County.

6. Subject to the restrictions contained in this chapter, the director of the division of credit unions shall have the authority to approve applications to amend bylaws regarding credit union membership or to organize credit unions that include single or multiple groups.

370.082. RETROACTIVE APPLICABILITY. — 1. Notwithstanding any law or court decision to the contrary, all credit unions shall have the right to continue to include in their field of membership all persons, groups and geographic areas that were included or were applied for as of April 1, 1998.

2. Any geographic area credit union that was granted a field of membership expansion after April 1, 1998, and before March 24, 2006, may include in its field of membership, the county, counties, or the city not within a county, where branch offices are located so long as the branch offices were open and in operation prior to April 15, 2007.

3. Any geographic area credit union that was granted a field of membership expansion after April 1, 1998, that is consistent with the field of membership expansion provisions of this chapter, shall be allowed to:

(1) Retain the expansion or expansions in its field of membership; and

(2) Serve the county, or the city not within a county, where the credit union main office is located.

370.088. BRANCHES REQUIRED TO BE LOCATED IN GEOGRAPHIC AREA OF THE CREDIT UNION. — Any geographic area credit union owned branch where deposits or shares are accepted for member's accounts, loan applications are accepted, or loans are disbursed shall be located in the geographic area of that credit union.

Approved July 13, 2007

SRB 613 [HCS Revision SB 613]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

REVISION BILL

AN ACT to repeal sections 7.240, 8.835, 21.435, 21.770, 32.069, 32.379, 32.380, 32.382, 32.384, 33.831, 42.160, 44.237, 52.276, 58.755, 72.424, 82.1050, 94.580, 103.081, 105.268, 128.350, 128.352, 128.354, 128.356, 128.358, 128.360, 128.362, 128.364, 128.366, 128.345, 128.346, 135.095, 137.423, 138.236, 140.015, 143.122, 143.172, 143.1010, 143.1011, 143.1012, 144.014, 144.030, 144.036, 144.041, 144.048, 144.514, 144.749, 160.300, 160.302, 160.304, 160.306, 160.308, 160.310, 160.312, 160.314, 160.316, 160.318, 160.320, 160.322, 160.324, 160.326, 160.328, 160.510, 161.205, 161.655, 169.710, 191.938, 197.121, 198.014, 198.540, 205.380, 205.390, 205.400, 205.410, 205.420, 205.430, 205.440, 205.450, 205.900, 208.177, 208.307, 208.574, 210.879, 210.930, 253.561, 260.037, 260.038, 260.826, 263.263, 277.200, 277.201, 277.202, 277.206, 277.209, 277.212, 277.215, 292.040, 292.150, 292.170, 292.260, 292.270, 292.550, 302.295, 302.782, 313.301, 311.178, 313.055, 313.300, 319.022, 319.023, 321.121, 339.860, 351.025, 354.065, 375.065, 375.700, 376.530, 376.550, 376.1399, 382.410, 388.650, 391.030, 391.040, 391.050, 391.080, 391.090, 391.100, 391.110, 391.120, 391.140, 391.150, 391.160, 391.170, 391.180, 391.190, 391.250, 391.260, 400.9-629, 415.430, 417.066, 442.050, 447.721, 454.808, 454.997, 476.016, 493.050, 516.060, 516.065, 537.040, 600.094, 620.528, 620.1310, 632.484, 643.360, 644.102, and 650.216, RSMo, and to enact in lieu thereof twenty new sections for the sole purpose of repealing expired, sunset, terminated, and ineffective provisions of law.

SECTION

160.324. Revenue bonds — duties of department — rights of holder.
160.326. Revenue bonds, refund, when, how.
160.328. Expiration of authority to issue bonds — expiration of other provisions.
160.510. Commission on performance established, members, terms — duties, remuneration — expiration date.
161.205. Legislative summary of changes in juvenile law, distribution, announcement, when required.
161.655. Economics and personal finance education study, report to general assembly, when — content of report — costs, how paid.
169.710. Appropriations made by general assembly to be repaid in two-year period.
191.938. Automated external defibrillator advisory committee established, duties, reports, membership, bylaws — termination date.
197.121. Certain facilities not to be licensed as a hospital — expiration date.
198.014. Evaluation of compliance with chapter 198, departments of health and senior services and social services — report to governor and general assembly, when.
198.540. Informal dispute resolution pilot project established — report to general assembly.
205.380. County may maintain a tuberculosis hospital — issuance of bonds.
205.390. Board of tuberculosis hospital commissioners — qualifications — appointment — terms — duties, annual report.
205.400. Purchase of property — condemnation.
205.410. County commission may receive gifts.
205.420. Patients, how admitted — board to determine status — nonresident patients admitted, when.
205.430. State assistance for support and treatment of patients.
205.440. State may purchase hospital — how managed.
205.450. Charity patients in city tuberculosis hospitals.
205.900. Supervision of paroled persons by county superintendent of public welfare.
208.177. Appropriations, certain services, retention and transfer by department.
208.307. Division of aging to report, contents.
208.574. Reauthorization required.
210.879. Reports, contents, when due.
210.930. Report to general assembly, when, content.
253.561. Effective date for sections 253.545 to 253.559.
260.037. Feasibility of state ownership of hazardous waste and recovery facilities, duties.
260.038. Resource recovery potential, study of, report.
260.826. Report.
263.263. Sections 263.261 and 263.262 effective, when.
277.200. Definitions.
277.201. Enforcement of livestock packers law to be consistent with federal act.
277.202. Unlawful acts.
277.206. Packer to provide prices paid for livestock, to whom, when.
277.209. Violations — penalty.
277.212. Violations referred to the attorney general.
277.215. Daily report of prices provided by packers — forms — penalty — rules, procedure — expiration date.
292.170. Seats for women.
292.260. Toilet rooms and rooms for changing clothing to be provided.
292.270. Gangways, width of — to be kept clear — to have dirt floors — ventilation.
292.550. Manufacturing of articles in dwelling houses.
302.295. Advisory working group established to research relation between .08 BAC laws and alcohol-related fatalities, composition, report.
302.782. Effective dates.
313.301. $5,000,000 transferred from lottery proceeds fund to schools of the future fund in fiscal year 2003.
319.023. Operators of underground facility not in notification center, duties — recorder of deeds, duties.
321.121. Directors, terms for those in office on September 28, 1981.
339.860. Effective date of sections 339.710 to 339.860.
375.700. Distribution of assets.
376.530. Married woman may insure life of husband.
376.550. Unmarried woman may insure whom.
382.410. Effective date.
388.650. Nonrepealer declared.
391.030. Street railway companies may accept provisions of this chapter.
391.040. Increase of capital stock and bonded indebtedness provided for.
391.050. Preferred stock authorized.
391.080. Street railroad companies authorized to operate parallel roads.
391.090. Cable roads may be operated on parallel lines.
391.100. Electric light plants may operate street railways.
391.110. Streetcar companies may operate electric light plants.
391.120. Roads may be used to carry mail.

391.140. Not more than two railroad tracks to be placed in street.
391.150. May run cars over tracks of another company, when.
391.160. Compensation for using tracks of another company, how fixed.
391.170. Report of track compensation commissioners — procedure.
391.180. Parties to be notified on filing of report by track compensation commissioners — appeal to circuit court.
391.190. Cars to be run, how — track to be kept in repair.
391.250. Stool or seat to be provided the conductor or motorman.
391.260. Heaters to be provided.
400.9-629. Disposition ordered for noncompliance of secured party — termination date.
415.430. Rental agreements entered into prior to September 28, 1985, provisions governing.
442.050. Married women may convey real estate or relinquish dower by power of attorney.
447.721. Contiguous property redevelopment fund created — grants issued to certain counties by department, criteria — rulemaking authority — expiration date.
454.808. System to be installed by October 1, 1997.
454.997. Effective date.
476.016. Schedule.
516.060. Spouse not joining in conveyance prior to 1900, barred, when.
516.065. Spouse not joining in conveyance, subsequent to 1900 and prior to 1935, barred, when.
537.040. Married woman liable alone for her torts.
600.094. Prior to effective date of law, previously appointed counsel to continue, unless relieved of case — fee claim presented to director.
620.528. Policy submission to governor and general assembly, content.
620.1310. Task force on trade and investment created — special emphasis on Africa — members of task force, qualifications, appointment — expires when.
643.360. Act not effective until lawsuit filed by attorney general, injunction — action, contents.
650.216. Emission restrictions for coal-fired cyclone boilers — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 7.240, 8.835, 21.435, 21.770, 32.069, 32.379, 32.380, 32.382, 32.384, 33.831, 42.160, 44.237, 52.276, 58.755, 72.424, 82.1050, 94.580, 103.081, 105.268, 128.350, 128.352, 128.354, 128.356, 128.358, 128.360, 128.362, 128.364, 128.366, 128.345, 128.346, 135.095, 137.423, 138.236, 140.015, 143.122, 143.172, 143.1010, 143.1011, 143.1012, 144.014, 144.030, 144.036, 144.041, 144.048, 144.514, 144.749, 160.300, 160.302, 160.304, 160.306, 160.308, 160.310, 160.312, 160.314, 160.316, 160.318, 160.320, 160.322, 160.324, 160.326, 160.328, 160.510, 161.205, 161.655, 169.710, 191.938, 197.121, 198.014, 198.540, 205.380, 205.390, 205.400, 205.410, 205.420, 205.430, 205.440, 205.450, 205.900, 208.177, 208.307, 208.574, 210.879, 210.930, 253.561, 260.037, 260.038, 260.826, 263.263, 277.200, 277.201, 277.202, 277.206, 277.209, 277.212, 277.215, 292.040, 292.150, 292.170, 292.260, 292.270, 292.550, 302.295, 302.782, 313.301, 311.178, 313.055, 313.300, 319.022, 319.023, 321.121, 339.860, 351.025, 354.065, 375.065, 375.700, 376.530, 376.550, 376.1399, 382.410, 388.650, 391.030, 391.040, 391.050, 391.080, 391.090, 391.100, 391.110, 391.120, 391.140, 391.150, 391.160, 391.170, 391.180, 391.190, 391.250, 391.260, 400.9-629, 415.430, 417.066, 442.050, 447.721, 454.808, 454.997, 476.016, 493.050, 516.060, 516.065, 537.040, 600.094, 620.528, 620.1310, 632.484, 643.360, 644.102, and 650.216, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 7.240, 32.069, 128.345, 128.346, 144.014, 144.030, 292.040, 292.150, 311.178, 313.055, 313.300, 319.022, 351.025, 354.065, 375.065, 376.1399, 417.066, 493.050, 632.484, and 644.102, to read as follows:

EXPLANATION: Subsection 2 of this section is ineffective by its own provisions; the time period contained in that subsection has expired.

7.240. GOVERNOR TO CONVENE COMMISSION. — **[**1.**]** The Missouri boundary commission shall be convened by the governor when there is a need to conduct boundary negotiations with any adjoining state. The general public commission members shall be selected when the commission is convened for such negotiation.

[2. Within four weeks after July 9, 1992, the Missouri boundary commission shall be convened by the governor for the purpose of initiating negotiations with the state of Nebraska concerning the Nebraska-Missouri boundary.**]**

EXPLANATION: Subsection 2 of this section is ineffective; it applies to fiscal year 2003 only.

32.069. INTEREST ALLOWED AND PAID ON REFUND OR OVERPAYMENT OF INTEREST PAID IN EXCESS OF ANNUAL INTEREST RATE. — **[**1.**]** Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days from the latest of the following dates:

(1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;

(2) The date the return, payment, or claim is filed; or

(3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

[2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005, RSMo.**]**

EXPLANATION: The first sentence of this section is ineffective by its own provisions; it refers to the 1990 census which has been superseded by the 2000 census.

128.345. DEFINITIONS. — **[**All references in sections 128.345 to 128.366 to counties, voting districts (VTD), and tract-blocks mean those counties, voting districts (VTD), and tract-blocks as reported to the state by the United States Bureau of the Census for the 1990 census.**]** All references in sections 128.400 to 128.440 to counties, voting districts (VTD), and tract-blocks (BLK) mean those counties, voting districts (VTD), and tract-blocks (BLK) as reported to the state by the United States Bureau of the Census for the 2000 census.

EXPLANATION: The first sentence of this section is ineffective by its own provisions; it refers to the 1990 census which has been superseded by the 2000 census.

128.346. CONGRESSIONAL DISTRICTS FOR ELECTION OF REPRESENTATIVES TO THE U.S. CONGRESS. — **[**The districts established by the provisions of sections 128.345 to 128.366 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 103rd Congress and through the election to the 107th Congress.**]** The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress.

EXPLANATION: Subsection 3 of this section is ineffective; it applies to sales tax collected prior to September 30, 1998.

144.014. FOOD, RETAIL SALES OF, RATE OF TAX, REVENUE DEPOSITED IN SCHOOL DISTRICT TRUST FUND — DEFINITION OF FOOD. — 1. Notwithstanding other provisions of law to the contrary, beginning October 1, 1997, the tax levied and imposed pursuant to sections 144.010 to 144.525 and sections 144.600 to 144.746 on all retail sales of food shall be at the rate of one percent. The revenue derived from the one percent rate pursuant to this section shall be deposited by the state treasurer in the school district trust fund and shall be distributed as provided in section 144.701.

2. For the purposes of this section, the term "food" shall include only those products and types of food for which food stamps may be redeemed pursuant to the provisions of the Federal Food Stamp Program as contained in 7 U.S.C. Section 2012, as that section now reads or as it

may be amended hereafter, and shall include food dispensed by or through vending machines. For the purpose of this section, except for vending machine sales, the term "food" shall not include food or drink sold by any establishment where the gross receipts derived from the sale of food prepared by such establishment for immediate consumption on or off the premises of the establishment constitutes more than eighty percent of the total gross receipts of that establishment, regardless of whether such prepared food is consumed on the premises of that establishment, including, but not limited to, sales of food by any restaurant, fast food restaurant, delicatessen, eating house, or cafe.

[3. Any person required to collect and remit the sales or use tax on food pursuant to the provisions of this section shall be entitled to a refund from the general revenue fund equal to three percent of all state and local sales and use taxes collected by such person on or after October 1, 1997, and prior to September 30, 1998, and remitted by such person on or before the date when the same becomes due in accordance with the provisions of sections 144.080, 144.081, 144.090 and 144.655, on the retail sale of food as defined in this section. This refund shall be in addition to the amount allowed in section 144.140 and shall be made without interest. Such refund shall be made only if such person files a correctly completed claim for refund on or before September 30, 1999, accompanied by such information as the director may require. The director of revenue shall promulgate such rules and regulations pursuant to the provisions of section 144.270 as are necessary to facilitate efficient administration of the refund authorized in this section. For the purposes of this subsection, "local sales taxes" shall mean any tax levied, assessed, or payable pursuant to the provisions of the "local sales tax law" as defined in section 32.085, RSMo, "local use taxes" shall mean any tax levied, assessed, or payable pursuant to the provisions of sections 144.757 to 144.761, and "state sales and use taxes" shall mean any tax levied pursuant to the provisions of sections 144.010 to 144.525 and sections 144.600 to 144.746.**]**

EXPLANATION: Subdivision (37) of subsection 2 of this section expired 6-30-03.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting,

the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility

service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) **[**Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38)**]** All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo; and

[(39)**]** **(38)** Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental

agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event.

EXPLANATION: Portions of this section are ineffective by its own provisions; it includes inapplicable gender references.

292.040. MINOR NOT TO CLEAN OR WORK IN CERTAIN PLACES ABOUT MACHINERY. — No minor **[**or woman**]** shall be required to clean any part of the mill, gearing or machinery while it is in motion in such establishment, nor shall any minor under the age of sixteen years be required to work between the fixed and traversing or the traversing parts of any machine while it is in motion by the action of steam, water, electricity or other mechanical power**[**; and no woman shall be required to work between the fixed and traversing or the traversing parts of any such machine, except the machine being operated by her**]**.

EXPLANATION: Portions of this section are ineffective by its own provisions; it includes inapplicable gender references.

292.150. WASHROOMS FOR WOMEN. — In every factory, workshop or other establishment in this state where girls or women are employed, where unclean work of any kind has to be performed, suitable places shall be provided for such girls or women to wash and dress**[**, and stairs in use by female employees shall in all such establishments be properly screened**]**.

EXPLANATION: Subsections 2, 3, and 4 expired 1-01-07, subsection 6 becomes obsolete after that date.

311.178. CONVENTION TRADE AREA, ST. LOUIS COUNTY, LIQUOR SALE BY DRINK, EXTENDED HOURS FOR BUSINESS, REQUIREMENTS, FEE — RESORT DEFINED — SPECIAL PERMIT FOR LIQUOR SALE BY DRINK (MILLER, MORGAN, AND CAMDEN COUNTIES) — EXPIRATION DATE. — 1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the first classification having a charter form of government and not containing all or part of a city with a population of over three hundred thousand, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The premises of such an applicant shall be located in an area which has been designated as a convention trade area by the governing body of the county and the applicant shall meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. **[**Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the third classification without a township form of government having a population of more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, a county of the third classification without a township form of government having a population of more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants or a county of the first classification without a charter

form of government with a population of at least thirty-seven thousand inhabitants but not more than thirty-seven thousand one hundred inhabitants, may apply to the supervisor of liquor control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 11:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The applicant shall meet all of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred thousand dollars or more;

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least seventy-five rooms for the overnight accommodation of transient guests, having at least three thousand square feet of meeting space and having a restaurant located on the premises; and

(3) The applicant shall develop, and if granted a special permit shall implement, a plan ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall be made except to guests with overnight accommodations at the licensee's resort. The plan shall be subject to approval by the supervisor of liquor control and shall provide a practical method for the division of liquor control and other law enforcement agencies to enforce the provisions of subsection 3 of this section.

3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any person except a guest with overnight accommodations at the licensee's resort.

4. An applicant granted a special permit pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

5.**]** The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any county of the first classification having a charter form of government which does not contain all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

[6. The enactment of subsections 2, 3, and 4 of this section shall terminate January 1, 2007.**]**

EXPLANATION: Portions of this section are ineffective by its own provisions; it applies to tax years prior to 1995.

313.055. TAX ON ORGANIZATIONS MAKING CERTAIN PRIZE AWARDS — RATE PAID, WHEN — DELINQUENT, PENALTY. — 1. **[**Until January 1, 1995,**]** A tax is hereby imposed on each organization conducting the game of bingo which awards to winners of bingo games prizes or merchandise having an aggregate retail value of more than five thousand dollars annually and more than one hundred dollars in any single day. **[**The tax shall be in an amount equal to two and one-half percent of the total gross receipts realized from each game of bingo conducted, shall be paid on a monthly basis to the commission, by each person or licensee conducting a game or games of bingo and shall be due on the fifteenth day of the month following the month in which each bingo game was conducted. Beginning January 1, 1995,**]** The tax shall be in the amount of two-tenths of one cent upon each bingo card and progressive bingo game card sold in Missouri to be paid by the supplier. The taxes, less two percent of the total amount paid which may be retained by the supplier, shall be paid on a monthly basis to the commission, by each supplier of bingo supplies and shall be due on the last day of the month following the month in which the bingo card was sold, with the date of sale being the date on the invoice evidencing the

sale, along with such reports as may be required by the commission. The taxes shall be deposited in the state treasury, credited to the bingo proceeds for education fund.

2. All taxes not paid to the commission by the person or licensee required to remit the same on the date when the same becomes due and payable to the commission under the provisions of sections 313.005 to 313.085 shall bear interest at the rate to be set by the commission not to exceed two percent per calendar month, or fraction thereof, from and after such date until paid. In addition, the commission may impose a penalty not to exceed three times the amount of taxes due for failure to submit the reports required by this section and pay the taxes due.

EXPLANATION: Subsection 2 of this section is ineffective by its own provisions; it applies to FY2003 only.

313.300. UNCLAIMED PRIZES — MONEYS TO REVERT TO STATE LOTTERY FUND. — **[**1.**]** Unclaimed prize money shall be retained by the commission for the person entitled thereto for one hundred eighty days after the time at which the prize was awarded. If no claim is made for the prize within one hundred eighty days, the prize money shall be reverted to the state lottery fund.

[2. In fiscal year 2003, the lottery commission shall transfer the amount received pursuant to this section to the lottery proceeds fund. In fiscal year 2003, the commissioner of administration shall transfer an equivalent amount from the lottery proceeds fund to the schools of the future fund created in section 163.005, RSMo.**]**

EXPLANATION: Subsection 1 of this section expired 12-31-02.

319.022. NOTIFICATION CENTERS, PARTICIPATION ELIGIBILITY — NAMES OF OWNERS AND OPERATORS MADE AVAILABLE, WHEN. — 1. **[**Owners and operators of underground pipeline facilities in compliance with federal law shall, and owners and operators of other underground facilities may, participate in a notification center. The provisions of this subsection shall expire on December 31, 2002.

2.**]** All owners and operators of underground facilities which are located in a county of the first classification or second classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2003. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the first classification or second classification on or after January 1, 2003, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2003, all owners and operators of underground facilities which are located in a county of the first classification or second classification within the state shall maintain participation in the notification center.

[3.**]** **2.** All owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2005. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the third classification or fourth classification on or after January 1, 2005, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2005, all owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state shall maintain participation in the notification center.

[4.**]** **3.** The notification center shall maintain in its offices and make available to any person upon request a current list of the names and addresses of each owner and operator participating in the notification center, including the county or counties wherein each owner or operator has

underground facilities. The notification center may charge a reasonable fee to persons requesting such list as is necessary to recover the actual costs of printing and mailing.

[5.**]** **4.** Excavators shall be informed of the availability of the list of participants in the notification center required in subsection **[**3**]** **2** of this section in the manner provided for in section 319.024.

[6.**]** **5.** An annual audit or review of the notification center shall be performed by a certified public accountant and a report of the findings submitted to the speaker of the house of representatives and the president pro tem of the senate.

EXPLANATION: Subsection 2 of this section expired 8-31-01.

351.025. CORPORATION ORGANIZED UNDER SPECIAL LAW MAY FILE CERTIFICATION OF ACCEPTANCE OF THIS LAW. — **[**1.**]** Any existing corporation heretofore organized for profit under any special law of this state may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares.

[2. Any health services corporation organized as a not-for-profit corporation pursuant to chapter 354, RSMo, that has complied with the provisions of section 354.065, RSMo, may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares, if any.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, 2001.**]**

EXPLANATION: Subsection 2 of this section expired 8-31-01.

354.065. ARTICLES OF INCORPORATION, HOW AMENDED — COPY TO DIRECTOR, WHEN. — **[**1.**]** A corporation may amend its articles of incorporation from time to time in the manner provided in chapter 355, RSMo, and shall file a duly certified copy of its certificate of amendment with the director of insurance within twenty days after the issuance of the certificate of amendment by the secretary of state. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

[2. A health services corporation organized as a not-for-profit corporation pursuant to this chapter may amend its articles in the manner provided in chapter 355, RSMo, to change its status to that of a for-profit business corporation and accept the provisions of chapter 351, RSMo, by:

(1) Adopting a resolution amending its articles of incorporation or articles of agreement so as:

(a) To eliminate any purpose, power or other provision thereof not authorized to be set forth in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

(b) To set forth any provision authorized pursuant to chapter 351, RSMo, to be inserted in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo, which the corporation chooses to insert therein and the material and information required to be set forth pursuant to chapter 351, RSMo, in the original articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

(2) Adopting a resolution accepting all of the provisions of chapter 351, RSMo, and providing that such corporation shall for all purposes be thenceforth deemed to be a corporation organized pursuant to chapter 351, RSMo;

(3) By filing with the secretary of state a certificate of acceptance of chapter 351, RSMo;

(4) By complying with the provisions of sections 355.616 and 355.621, RSMo, to the extent those sections would apply if such health services corporation were merging with a domestic business corporation with the proposed amended articles of incorporation serving as the proposed plan of merger.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, 2001.**]**

EXPLANATION: Subsections 8 to 14 expired 12-31-02.

375.065. CREDIT INSURANCE PRODUCER LICENSE — ORGANIZATIONAL CREDIT ENTITY LICENSE — APPLICATION — FEE — RULES. — 1. Notwithstanding any other provision of this chapter, the director may license credit insurance producers by issuing individual licenses to each credit insurance producer or by issuing an organizational credit entity license to a resident or nonresident applicant who has complied with the requirements of subsections 1 to 7 of this section. An organizational credit entity license authorizes the employees of the licensee who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as insurance producers for the following types of insurance:

(1) Credit life insurance;

(2) Credit accident and health insurance;

(3) Credit property insurance;

(4) Credit mortgage life insurance;

(5) Credit mortgage disability insurance;

(6) Credit involuntary unemployment insurance;

(7) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit entity license, an applicant shall submit to the director the uniform business entity application along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the business entity, the business address or addresses of the business entity and the type of ownership of the business entity. If a business entity is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of the business entity. If the business entity is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the business entity is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the business entity and to whom it pays any salary or commission for the sale, solicitation, negotiation or procurement of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, credit mortgage life, credit mortgage disability or any other form of credit or credit-related insurance approved by the director. Any changes in the list of employees of the business entity due to hiring or termination or any other reason shall be submitted to the director within ten days of the change.

3. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed insurance producers pursuant to the provisions of subsection 1 of section 375.014 for the authorized lines of credit insurance, and shall be deemed licensed insurance producers for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on the business entity application list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant has complied with all license requirements contained in subsections

1 to 7 of this section, shall issue the applicant an organizational credit business entity license which shall remain in effect for one year or until suspended or revoked by the director, or until the organizational credit business entity ceases to operate as a legal entity in this state. Each organizational credit business entity shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees selling, soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each employee.

5. Licenses of organizational credit business entities which are not timely renewed shall expire on the anniversary date of the original issuance. An organizational credit business entity that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.

6. Notwithstanding any other provision of law to the contrary, subsections 1 to 7 of this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit business entity.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of subsections 1 to 7 of this section. No rule or portion of a rule promulgated pursuant to the authority of subsections 1 to 7 of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[8. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of subsections 8 to 14 of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

(1) Credit life insurance;

(2) Credit accident and health insurance;

(3) Credit property insurance;

(4) Credit mortgage life insurance;

(5) Credit mortgage disability insurance;

(6) Credit involuntary unemployment insurance;

(7) Any other form of credit or credit-related insurance approved by the director.

9. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, credit mortgage life, credit mortgage disability or any other form of credit or credit-related insurance approved by the director.

10. An organizational credit agency authorized pursuant to subsections 8 to 14 of this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 9 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

11. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in subsections 8 to 14 of this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

12. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

13. Notwithstanding any other provision of law to the contrary, subsections 8 to 14 of this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

14. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of subsections 8 to 14 of this section. No rule or portion of a rule promulgated pursuant to the authority of subsections 8 to 14 of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

15. The provisions of subsections 1 to 7 of this section shall become effective January 1, 2003, and the provisions of subsections 8 to 14 of this section shall terminate December 31, 2002.**]**

EXPLANATION: Subsections 2 to 6 of this section expired 08-28-97.

376.1399. RULES, EFFECTIVE, WHEN — RULES INVALID AND VOID, WHEN. — **[**1.**]** Any rule or portion of a rule promulgated pursuant to this act shall become effective only as provided pursuant to chapter 536, RSMo, including, but not limited to, section 536.028, RSMo, if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, if applicable, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

[2. In any action challenging any rule promulgated pursuant to the provisions of this act, the agency as defined in section 536.010, RSMo, promulgating such rule shall be required to prove by a preponderance of the evidence that the rule or threatened application of the rule is valid, is authorized by law, is not in conflict with any law and is not arbitrary and capricious.

3. The court shall award reasonable fees and expenses as defined in section 536.085, RSMo, to any party who prevails in such action.

4. All rules promulgated pursuant to the provisions of this section shall expire on August twenty-eighth of the year after the year in which the rule became effective unless the general

assembly extends by statute the rule or set of rules beyond that date to a date specified by the general assembly.

5. Any rulemaking authority granted pursuant to the provisions of this act is subject to any rulemaking authority contained in chapter 536, RSMo, including any subsequent amendments to chapter 536, RSMo.

6. The provisions of subsections 2 through 5 of this section shall terminate if legislation amending the provisions of section 536.024, RSMo, has been signed into law prior to August 28, 1997.**]**

EXPLANATION: Subsection 2 of this section is ineffective by its own provisions; it applied to court proceedings pending on September 28, 1973.

417.066. COMMON LAW MARKS NOT AFFECTED — ACTIONS TO REQUIRE CANCELLATION OF A MARK OR TO COMPEL REGISTRATION, VENUE, PARTIES. — 1. Nothing herein shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

2. **[**The provisions of sections 417.005 to 417.066 shall not affect any suit, proceeding or appeal pending on September 28, 1973.

3.**]** Actions to require cancellation of a mark registered pursuant to sections 417.005 to 417.066 shall be brought in a court of competent jurisdiction. Actions seeking an extraordinary writ to compel registration of a mark pursuant to sections 417.005 to 417.066 shall be brought in the circuit court of Cole County. In an action seeking an extraordinary writ, the proceeding shall be based solely upon the record before the secretary of state. In an action for cancellation, the secretary of state shall not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the court and shall be given the right to intervene in the action.

[4.**]** **3.** In any action brought against a nonresident registrant, service may be effected upon the agent for service of the registrant in accordance with the procedures established for service upon nonresident corporations and business entities under section 351.594, RSMo.

EXPLANATION: Subsection 2 of this section expired 6-30-06.

493.050. PUBLIC ADVERTISEMENTS AND ORDERS OF PUBLICATION PUBLISHED ONLY IN CERTAIN NEWSPAPERS. — **[**1.**]** All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate shall be published in some daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as periodicals class matter in the city of publication; shall have been published regularly and consecutively for a period of three years, except that a newspaper of general circulation may be deemed to be the successor to a defunct newspaper of general circulation, and subject to all of the rights and privileges of said prior newspaper under this statute, if the successor newspaper shall begin publication no later than thirty consecutive days after the termination of publication of the prior newspaper; shall have a list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time; provided, that when a public notice, required by law to be published once a week for a given number of weeks, shall be published in a daily, triweekly, semiweekly or weekly newspaper, the notice shall appear once a week, on the same day of each week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section; provided further, that the duration of consecutive publication provided for in this section shall not affect newspapers which have become legal publications prior to September 6, 1937; provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the newspaper may be reinstated within one year after actual hostilities have ceased, with

all the benefits provided pursuant to the provisions of this section, upon the filing with the secretary of state of notice of intention of such owner or publisher, the owner's surviving spouse or legal heirs, to republish such newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as periodicals class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 493.070 to 493.120, are hereby repealed.

[2. If a county is served by only one newspaper that has been published regularly and consecutively for a period of two years and that meets all other publication, postal, and subscription requirements pursuant to and under subsection 1 of this section, such newspaper shall be qualified to publish all public advertisements and orders of publication required by law, and all legal publications affecting the title to real estate. The provisions of this subsection shall terminate and expire on June 30, 2006.**]**

EXPLANATION: Subdivision (2) of subsection 1 of this section expired 12-31-01.

632.484. DETENTION AND EVALUATION OF PERSONS ALLEGED TO BE SEXUALLY VIOLENT PREDATORS — DUTIES OF ATTORNEY GENERAL AND DEPARTMENT OF MENTAL HEALTH. — 1. When the attorney general receives written notice from any law enforcement agency that a person, who has pled guilty to or been convicted of a sexually violent offense and who is not presently in the physical custody of an agency with jurisdiction**[**:

(1)**]** Has committed a recent overt act**[**; or

(2) Has been in the custody of an agency with jurisdiction within the preceding ten years and may meet the criteria of a sexually violent predator;**],** the attorney general may file a petition for detention and evaluation with the probate division of the court in which the person was convicted, or committed pursuant to chapter 552, RSMo, alleging the respondent may meet the definition of a sexually violent predator and should be detained for evaluation for a period of up to nine days. The written notice shall include the previous conviction record of the person, a description of the recent overt act, if applicable, and any other evidence which tends to show the person to be a sexually violent predator. The attorney general shall provide notice of the petition to the prosecuting attorney of the county where the petition was filed.

2. Upon a determination by the court that the person may meet the definition of a sexually violent predator, the court shall order the detention and transport of such person to a secure facility to be determined by the department of mental health. The attorney general shall immediately give written notice of such to the department of mental health.

3. Upon receiving physical custody of the person and written notice pursuant to subsection 2 of this section, the department of mental health shall, through either a psychiatrist or psychologist as defined in section 632.005, make a determination whether or not the person meets the definition of a sexually violent predator. The department of mental health shall, within seven days of receiving physical custody of the person, provide the attorney general with a written report of the results of its investigation and evaluation. The attorney general shall provide any available records of the person that are retained by the department of corrections to the department of mental health for the purposes of this section. If the department of mental health is unable to make a determination within seven days, the attorney general may request an additional detention of ninety-six hours from the court for good cause shown.

4. If the department determines that the person may meet the definition of a sexually violent predator, the attorney general shall provide the results of the investigation and evaluation to the prosecutors' review committee. The prosecutors' review committee shall, by majority vote, determine whether or not the person meets the definition of a sexually violent predator within twenty-four hours of written notice from the attorney general's office. If the prosecutors' review

committee determines that the person meets the definition of a sexually violent predator, the prosecutors' review committee shall provide written notice to the attorney general of its determination. The attorney general may file a petition pursuant to section 632.486 within forty-eight hours after obtaining the results from the department.

5. For the purposes of this section "recent overt act" means any act that creates a reasonable apprehension of harm of a sexually violent nature.

[6. The provisions of subdivision (2) of subsection 1 of this section shall expire December 31, 2001.**]**

EXPLANATION: Last sentence of this section is ineffective by its own provisions; it terminated June 30, 1992.

644.102. MATCHING GRANTS FOR STATE REVOLVING LOAN RECIPIENTS TERMINATES JUNE 30, 1992. — In addition to those sums authorized prior to the effective date of this section, the board of fund commissioners of the state of Missouri, as authorized by sections 37(c) and 37(e) of article III of the Constitution of the state of Missouri, may borrow, on the credit of this state, the sum of thirty-five million dollars in the manner and for the purposes set out in chapters 640 and 644, RSMo. **[**The current fifteen percent matching grant for state revolving loan recipients will terminate June 30, 1992.**]**

EXPLANATION: This section becomes ineffective by its own provisions after 2006.

[8.835. PRIORITY PROJECTS INITIATED WHEN — ANTICIPATED REDUCTION OF UTILITY AND ENERGY COST REPORTED TO APPROPRIATION AND BUDGET COMMITTEES. — 1. The office of administration shall initiate the highest priority project or projects on or before August 28, 1994, and shall initiate projects with a simple energy savings payback period of five years or less on or before August 28, 1998.

2. The office of administration shall advise the senate appropriations committee and the house budget committee of the anticipated reduction of utility and energy costs of all affected state agencies for the payback period of each project and for two fiscal years after completion of the payback period.**]**

EXPLANATION: This section is ineffective by its own provisions; the report required by this section has been submitted.

[21.435. CORPORATE TRUSTEE REPORT. — On or before January 1, 2001, a state organization which is related to a national organization by some common membership, which focuses on issues involving banking and represents a cross section of the Missouri banking community, shall be designated by the speaker of the house of representatives and president pro tem of the senate to report to the general assembly its recommendations for the removal and/or replacement of a corporate trustee in cases where the original corporate trustee has been replaced by a subsequent corporate trustee as a result of, but not limited to, cases involving corporate merger, acquisition, or a cessation of business by the original corporate trustee.**]**

EXPLANATION: This section is ineffective by its own provisions; it created an interim committee that terminated December 1, 1995.

[21.770. CHILD VISITATION AND SUPPORT, INTERIM COMMITTEE TO REVIEW — REPORT, DUE WHEN. — The speaker of the house of representatives shall appoint a nine-member interim study committee to review child visitation and child support statutes. Such committee shall report its findings and recommendations to the speaker of the house no later than December 1, 1995.**]**

EXPLANATION: This section is ineffective by its own provisions; it is a 2003 tax amnesty for taxes due prior to 2003.

[32.379. AMNESTY TO APPLY TO CERTAIN TAXES — CONDITIONS — COLLECTION FEE — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes or taxes due and owing reported and paid in full from August 1, 2003, to October 31, 2003, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2003. The amnesty shall apply only to state tax liabilities due or due but unpaid on or before December 31, 2002, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. A collection fee, not to exceed twenty-five percent of the delinquent tax amount, may be imposed but shall not be subject to waiver or abatement. The collection fee shall be in addition to all other penalties and interest otherwise authorized by law and may be imposed upon any tax liabilities eligible to be satisfied during the amnesty period established pursuant to this section that are not satisfied during such period.

7. The first seventy-five thousand dollars of revenue collected pursuant to this section shall be used exclusively for postage for notification of the tax amnesty program established in this section.

8. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.**]**

EXPLANATION: This section is ineffective by its own provisions; it is a 2002 tax amnesty for taxes due prior to 2002.

[32.380. AMNESTY TO APPLY TO CERTAIN TAXES — CONDITIONS FOR GRANTING — PAYMENTS TO BE DEPOSITED IN SCHOOLS OF THE FUTURE FUND — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of any other law to the contrary, with respect

to taxes administered by the department of revenue, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes or taxes due and owing reported and paid in full from August 1, 2002, to October 31, 2002, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2002. The amnesty shall apply only to state tax liabilities due or due but unpaid on or before December 31, 2001, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

6. All tax payments received as a result of the amnesty program established pursuant to this section shall be deposited in the schools of the future fund created pursuant to section 163.005, RSMo, other than revenues earmarked by the Missouri Constitution.

7. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**]**

EXPLANATION: This section expired 1-1-05.

[32.382. ATTORNEY GENERAL TO REVIEW TAX ABATEMENT AGREEMENTS, PROCEDURE — TERMINATION DATE. — 1. Notwithstanding any other provision of law, before the director of revenue enters into any agreement to abate all or part of a taxpayer's liability to the state, including interest and additions to tax, the director shall forward a copy of the agreement to the attorney general before entering into such agreement.

2. Upon receiving the proposed agreement, the attorney general shall, within ten days, review and approve such agreement for its legal form and content as may be necessary to protect the legal interest of the state. If the attorney general does not approve, then the attorney general shall return the agreement with additional proposed provisions as may be necessary to the proper enforcement of the agreement as required to protect the state's legal interest. If the attorney general does not respond within ten days, or in the case of any agreement that involves an abatement of the taxpayer's tax liability, including interest and additions to tax, to the state of one million dollars or more, within thirty days, the agreement shall be deemed approved.

3. Communications related to the attorney general's review are attorney-client communications. The attorney general's written disposition shall be subject to chapter 610, RSMo.

4. The provisions of this section shall terminate January 1, 2005.**]**

EXPLANATION: This section is ineffective by its own provisions; it is a 2003 tax amnesty for taxes due prior to 2002.

[32.384. AMNESTY TO APPLY TO CERTAIN MOTOR VEHICLE AND BOAT TAXES — CONDITIONS — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue on motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors pursuant to subdivision (1) of subsection 1 of section 144.020, RSMo, and section 144.440, RSMo, and the fees charged pursuant to subsection 5 of section 301.190, RSMo, an amnesty from the assessment or payment of all penalties, additions to tax, fees, and interest due thereon shall apply with respect to taxes due and owing reported and paid in full from August 1, 2003, to October 31, 2003, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before August 1, 2003. The amnesty shall apply only to state tax or fee liabilities due on or before December 31, 2002, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by the state of Missouri.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest which may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in subsection 1 of this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance due within sixty days of approval by the department of revenue, and who agree to comply with all state tax laws for the next three years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest pursuant to this section unless full payment of the tax due is made in accordance with rules and regulations established by the director of revenue.

4. If a taxpayer elects to participate in the amnesty program established pursuant to this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received pursuant to this section shall be eligible for refund or credit.

5. The department may promulgate such rules or regulations or issue administrative guidelines as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of

the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.**]**

EXPLANATION: This section is ineffective by its own provisions; it requires a report to be issued by 1-1-95.

[33.831. POWERS AND DUTIES OF FEDERAL MANDATE AUDITOR — REPORT OF SUMMARY SENT TO WHOM. — 1. The federal mandate auditor shall make an inventory of all unfunded federal mandates on the state and on local governments in the state. The federal mandate auditor shall make a calculation of the cost of these federal mandates to the different levels of government.

2. The federal mandate auditor shall issue an annual report by January 1, 1995, which shall contain:

(1) A summary of the cost of unfunded federal mandates on the state as well as full detail on cost by program and agency;

(2) A summary of the cost of unfunded federal mandates on local governments, broken down as far as possible;

(3) Statistics that show the year-to-year trends in unfunded federal mandates in total as well as by program. This historical analysis shall also include the aggregate trend for federal mandates on the state and federal mandates on local governments.

3. The report or a summary thereof prepared pursuant to this section shall be sent to:

(1) The governor;

(2) The state's United States Senators and Representatives;

(3) The clerks of each respective house; and

(4) The top elected official of each local government unit requesting such report.**]**

EXPLANATION: This section is ineffective by its own provisions; it authorized a one-time appropriation to be made before August 28, 2000.

[42.160. GENERAL ASSEMBLY TO ASSIST IN WORLD WAR II MEMORIAL FUNDING. — The Missouri general assembly shall, through appropriations as provided by law, participate in the funding of the National World War II Memorial to be located at a site dedicated on November 11, 1995, on the National Mall in Washington, D.C. in an amount equal to four hundred thirty-eight thousand dollars. Such funds shall be disbursed August 28, 2000, to the World War II Memorial Fund.**]**

EXPLANATION: This section is ineffective by its own provisions; the deadline for the study to be submitted was 6-30-97.

[44.237. STUDY FOR EARTHQUAKE HAZARD REDUCTION, DUTIES OF COMMISSION. — 1. In addition to its responsibilities listed in sections 44.225 to 44.237, the commission shall undertake a study to determine the feasibility of establishing a comprehensive program of earthquake hazard reduction having as its purposes the saving of lives and mitigating damage to property in Missouri.

2. The study shall accomplish the following tasks:

(1) Earthquake hazard reduction. The study shall develop a comprehensive program for the reduction of earthquake hazards in Missouri. It shall include, but not necessarily be limited to, the following:

(a) A review of and recommendations for improving the development and implementation of technically and economically feasible codes, standards and procedures for the design and

construction of new structures and the strengthening of existing structures so as to increase the earthquake resistance of structures located in areas of significant seismic hazard;

(b) A review of current methods and recommendations for new methods to improve the development, publication and promotion, in conjunction with local officials, research organizations and professional organizations, of model codes and other means to provide better information about seismic hazards to guide land-use policy decisions and building activity;

(c) A review of and recommendations for methods, practices and procedures to educate the public, including local officials, about the nature and consequences of earthquakes, about procedures for identifying those locations and structures especially susceptible to earthquake damage and about ways to reduce and mitigate the adverse effects of an earthquake;

(d) A review of and recommendations for programs and techniques to improve preparedness for and response to damaging earthquakes with special attention being given to hazard control measures, pre-earthquake emergency planning, readiness of emergency services and planning for post-earthquake reconstruction and redevelopment.

(2) Implementation processes. With respect to implementation of earthquake hazard reduction, the study shall include the following:

(a) Recommendations for new roles, responsibilities and programs for state and local agencies, universities, private organizations and volunteer organizations, including goals, priorities and expenditures of future state funds specifically identified for the recommended hazards reduction program;

(b) Recommendations for methods and procedures to disseminate and implement basic and applied earthquake research in order to achieve higher levels of seismic safety.

(3) Coordination with other agencies. To the extent it is practical to do so, the study required by this section shall be coordinated with the relevant local, regional and federal government agencies, key elements of the private sector, and at least the following state agencies: state emergency management agency, division of geology and land survey, division of design and construction, Missouri housing development commission, department of natural resources, department of labor and industrial relations, public service commission, department of health and senior services, office of the state fire marshal, department of transportation, department of revenue, office of the adjutant general, department of insurance, and the department of elementary and secondary education.

3. The study shall include recommendations for statutory changes and specific executive actions to be taken by state and local agencies necessary to establish and implement an earthquake hazards reduction program for the state of Missouri.

4. The commission shall submit the study to the general assembly by June 30, 1997, or earlier at its discretion.**]**

EXPLANATION: This section is ineffective by its own provisions; the effective dates contained in this section have occurred.

[52.276. EFFECTIVE DATES OF SECTIONS 52.140, 52.260, 52.270 AND SECTION 1. — Sections 52.140, 52.260, 52.270 and section 1 shall become effective on the first Monday in March in the year 1979. Section 52.274 shall become effective September 29, 1977.**]**

EXPLANATION: This section is ineffective by its own provisions; it applied to coroners in office on September 28, 1973.

[58.755. OFFICE OF CORONER ABOLISHED, WHEN (CERTAIN COUNTIES). — The coroner in any county to which sections 58.010, 58.020, 58.060, 58.090, 58.160, 58.375, 58.451, 58.455 and 58.700 to 58.765 apply in office on September 28, 1973, shall not be removed from office during the remainder of the term for which he was elected, but upon the expiration of his term,

or upon his resignation or death, the office of coroner is abolished, and a county medical examiner shall be appointed as provided in section 58.700.**]**

EXPLANATION: This section expired 3-1-01.

[72.424. OWNERS OF CERTAIN TRACTS OF LAND LOCATED IN CERTAIN CITIES (INCLUDING EUREKA AND WILDWOOD) MAY, BY AGREEMENT, CHOOSE TO JOIN ONE OR THE OTHER, PROCEDURE — TERMINATION DATE. — Notwithstanding any other provisions of sections 72.400 to 72.423, any owner of a tract of land of thirty acres or less owned by a single owner and that is located within two or more municipalities, one municipality being a city of the fourth classification with a population between four thousand six hundred and five thousand, and the other municipality being a constitutional charter city with a population between sixteen thousand three hundred and seventeen thousand, and both municipalities located within a county of the first classification having a charter form of government and having a minimum population of nine hundred thousand, may elect which municipality to belong to by agreement of that municipality. Such owner's election shall occur within ninety days of August 28, 2000. Such agreement shall consist of the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the county clerk and to the city clerk and assessor of the contributing municipality before December fifteenth, with such transfer becoming effective the next January first. Such choice of municipalities shall be permanent. Thereafter, all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. This section shall only apply to boundary changes effected after January 1, 1990, and occurring by the incorporation of a municipality. This section shall expire and be of no force and effect on March 1, 2001.**]**

EXPLANATION: This section expired 1-01-06.

[82.1050. LANDLORDS IN CERTAIN CITIES REQUIRED TO REGISTER WITH CITY TO ENSURE SAFETY AND CODE REGULATION COMPLIANCE, REQUIRED INFORMATION — EXPIRATION DATE (INCLUDING KANSAS CITY AND ST. LOUIS). — 1. Beginning January 1, 2001, any landlord who leases real property located in any city with a population of more than four hundred thousand inhabitants shall submit a registration form to the governing body of such city pursuant to this section.

2. The registration form shall be developed by the governing body of such city and shall contain:

(1) The name, personal address, business address and telephone numbers of the landlord;

(2) The address of each property located in the city that is owned and leased by the landlord; and

(3) The name, address and phone number of a person who will serve as a legal representative of the landlord for purposes of receiving public safety violations, code violations or other violations of any kind involving the property listed pursuant to subdivision (2) of this subsection. In the event no legal representative is named pursuant to this subdivision, the landlord shall serve as his or her own legal representative for purposes of this subdivision.

3. The city shall compile the registration forms submitted pursuant to this section for the purposes of ensuring greater efficiency in compliance with, and enforcement of, local public safety and code regulations. On or before July 1, 2002, and on or before every July first thereafter, the city shall issue a report to the governor, the speaker of the house of representatives and the president pro tempore of the senate as to the effectiveness of the compilation of the forms in ensuring greater efficiency in compliance with, and enforcement of, public safety and code regulations.

4. This section shall be of no force and effect on or after January 1, 2006.**]**

EXPLANATION: This section is ineffective; the time period for the tax has elapsed.

[94.580. SALES TAX AUTHORIZED FOR FLOOD RELIEF PROJECTS — ELECTION PROCEDURES — BALLOT FORM, TAX RATE, LIMITATIONS — COLLECTION PROCEDURES — FLOOD RELIEF PROJECTS FUND ESTABLISHED — EXPIRATION OF TAX (INCLUDES KANSAS CITY). — 1. The governing body of any constitutional charter city with a population of over four hundred thousand and located in four or more counties is hereby authorized to impose, by ordinance, a sales tax on all retail sales which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing funds for flood relief projects in that city. The tax authorized by this section shall be authorized only to the extent a city may seek authority from its voters under section 94.577 to impose a capital improvements sales tax. The sum of sales taxes imposed by a city under the authority of section 94.577 and this section shall not exceed one-half of one percent. The ordinance shall become effective after the governing body of the city submits to the voters of that city a proposal to authorize the tax. Notwithstanding the provisions of chapter 115, RSMo, to the contrary, all required notice shall be provided to all entities specified in sections 115.125 and 115.127, RSMo, within one business day of adoption of the ordinance calling an election as a result of a flooding emergency, and the provisions of section 115.123, RSMo, shall not apply. However, election authorities shall provide notice one time as soon as feasible after receiving notice from the city calling the election consistent with the publication requirements of chapter 115, RSMo.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of .....(name of city) impose a sales tax of .....(insert amount) for ..... (insert term) for the purpose of funding flood relief projects?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect, beginning the first day of the second calendar quarter following its adoption. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the city shall have no power to impose the sales tax authorized in this section unless and until the governing body of the city shall again have submitted another such proposal and the proposal is approved by the requisite majority of the qualified voters voting thereon. Any subsequent election shall not be excused from the requirements of chapter 115, RSMo.

3. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to 94.550, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall go into effect on the first day of the next calendar quarter beginning after its adoption and notice to the director of revenue, but no sooner than thirty days after such adoption and notice. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

4. The sales tax may be approved at a rate of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent or one-half of one percent, but in no event shall the sum of the tax imposed by this section and section 94.577, in one or more elections, exceed one-half of

one percent of the receipts from the sale at retail of all tangible personal property and taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. Whether approved at one or more elections, the flood relief sales tax rate may not exceed the available taxing authority of the city.

5. All revenue generated from the tax authorized under the provisions of this section shall be deposited into the "Flood Relief Projects Fund", which is hereby created in the state treasury. The fund moneys shall be distributed to the city from which the revenue was generated for the sole purpose of funding flood relief projects. Once the tax authorized by this section is abolished or terminated by any means, all funds remaining in the fund shall be used solely for that purpose.

6. Any sales tax imposed pursuant to this section shall expire no later than two years from the date of its inception.]

EXPLANATION: This section is ineffective by its own provisions; the deadline for the plan to be submitted was September 1, 2000.

[103.081. HMO BENEFITS COVERAGE PLAN FOR CERTAIN STATE EMPLOYEES. — The board shall develop and submit to the general assembly by September 1, 2000, a plan to offer to state employees located in counties in which HMO coverage is not available, a medical benefits plan for calendar year 2001 with benefits coverage substantially identical to HMO benefits coverage, at a cost to employees not to exceed the average cost to employees for HMO coverage in counties where such coverage is available.**]**

EXPLANATION: This section expired 6-30-02.

[105.268. STATE EMPLOYEE TO BE GRANTED LEAVE FOR VOLUNTEERING TO TUTOR IN CERTAIN SCHOOL DISTRICTS, WHEN — ELIGIBILITY — SUMMARY — REPORT AND EVALUATION — EXPIRATION DATE. — 1. During school years 1999-2000 through 2001-02 any employee of the state of Missouri who works in a metropolitan school district or an urban school district containing the greater part of the population of a city which has more than three hundred thousand inhabitants and who is a volunteer tutor in a formal tutoring or mentoring pilot program in language arts at a public elementary school in such district may be granted leave from the employee's duties, without loss of time, pay, regular leave, impairment of efficiency rating or any other rights or benefits to which such person would otherwise be entitled for periods during which such person is engaged in such volunteer tutoring activities at a public elementary school. Leave for such volunteer tutoring activities shall not be granted in excess of one-half of the hours spent tutoring, for activities conducted at times outside of the employee's normal work day, for more than forty hours in any one calendar year, or more than two hours in any one day. The principal of the school shall give such an employee a signed statement by such principal verifying the time such employee was engaged in such tutoring activities.

2. To be eligible to participate in a volunteer tutoring program as provided in subsection 1 of this section, the employee shall:

(1) Be a full-time state employee with a performance appraisal of highly successful or outstanding;

(2) Have the approval of the employee's supervisor or supervisors;

(3) Not be absent during heavy workload periods or create scheduling conflicts with other state employees or result in any overtime hours for the employee or other state employees;

(4) Establish a set schedule, including traveling time to the school, which shall not be for more than two hours per day or more than one day per week; and

(5) Submit the statement issued by the principal verifying the time the employee was engaged in volunteer tutoring activities.

3. Every state agency that has state employees participating in a formal tutoring or mentoring program as provided in subsection 1 of this section shall submit a summary of the statements received pursuant to subdivision (5) of subsection 2 of this section to the Missouri community service commission, created in section 26.605, RSMo. Such summary shall include the number of employees participating, the number of hours that all participants engaged in volunteer tutoring and a list of the schools where the employees volunteered.

4. The Missouri community service commission shall submit an annual report to the general assembly with the names of the state agencies submitting the summaries required by subsection 3 of this section and a compilation of all the information contained on such summaries.

5. The school board of a participating district shall evaluate the programs and make recommendations to the general assembly by December 15, 2001, on the continuance, expansion or termination of the programs and any recommended changes to the programs.

6. The provisions of this section shall expire on June 30, 2002.**]**

EXPLANATION: The following sections are ineffective by their own provisions. They apply to and contain the VTD numbers from the 1990 census. They have been superseded by sections 128.400 to 128.440, which contain the VTD numbers from the 2000 census.

[128.350. FIRST CONGRESSIONAL DISTRICT (1990 CENSUS). — The first district shall be composed of the following: ST. LOUIS County (part)

VTD AO05 A5,18,21,46,39,59,61
VTD AO06 Airport 6,204-205
VTD AO09 Airport 9
VTD AO10 Airport 10,36,60
VTD AO11 Airport 11-13,34
VTD AO14 Airport 14-15
VTD AO16 Airport 16,17,200
VTD AO19 Airport 19
VTD AO23 Airport 23
VTD AO26 Airport 26,32
VTD AO41 Airport 41
VTD AO43 Airport 43-44
VTD AO50 Airport 50
VTD CC01 Creve Coeur 1
VTD CC02 Creve Coeur 2
VTD CC03 Creve Coeur 3
VTD CC04 Creve Coeur 4,45
VTD CC05 Creve Coeur 5
VTD CC06 Creve Coeur 6,8
VTD CC07 Creve Coeur 7,12
VTD CC09 Creve Coeur 9,10
VTD CC11 Creve Coeur 11
VTD CC13 Creve Coeur 13,19,62
VTD CC14 Creve Coeur 14,49
VTD CC15 Creve Coeur 15
VTD CC16 Creve Coeur 16
VTD CC18 Creve Coeur 18,63
VTD CC25 Creve Coeur 25
VTD CC26 CC26,28,64,74,202-203,205-206 (part)
Tract/Block 2156 402

Tract/Block 2156 404
Tract/Block 2156 406
Tract/Block 2156 407
VTD CC27 Creve Coeur 27
VTD CC34 Creve Coeur 34
VTD CC41 Creve Coeur 41
VTD CC42 Creve Coeur 42
VTD CC43 Creve Coeur 43
VTD CC65 Creve Coeur 65
VTD CL02 Clayton 2
VTD CL03 Clayton 3,10
VTD CL04 Clayton 4
VTD CL05 Clayton 5-6
VTD CL08 Clayton 8,44
VTD CL11 Clayton 11
VTD CL21 Clayton 21
VTD CL22 Clayton 22,54
VTD CL23 Clayton 23,33
VTD CL32 Clayton 32
VTD CL61 Clayton 61
VTD FE01 Ferg. 1,12,21,47,63
VTD FE02 Ferguson 2,39
VTD FE03 Ferguson 3,23,51
VTD FE04 Ferguson 4,6,7,37,71
VTD FE05 Ferguson 5,56
VTD FE08 Ferg. 8,28,38,70,72
VTD FE09 Ferguson 9
VTD FE10 Ferguson 10,11
VTD FE13 Ferguson 13,22,57
VTD FE14 Ferguson 14,40,55,69
VTD FE15 Ferguson 15,65
VTD FE16 Ferguson 16,17
VTD FE18 Ferguson 18,19,27
VTD FE20 Ferguson 20,61
VTD FE24 Ferguson 24,64
VTD FE25 Ferguson 25
VTD FE26 Ferg. 26,46,48,59,62
VTD FE29 Ferguson 29
VTD FE30 Ferguson 30,31,32
VTD FE33 Ferguson 33
VTD FE34 Ferguson 34
VTD FE35 Ferguson 35
VTD FE36 Ferguson 36,54,67
VTD FE41 Ferguson 41,42
VTD FE43 Ferguson 43,49
VTD FE44 Ferguson 44
VTD FE45 Ferguson 45,52,53,60
VTD FE50 Ferguson 50,58
VTD FE66 Ferguson 66
VTD FE68 Ferguson 68

VTD FL01 Florissant 1
VTD FL02 Florissant 2
VTD FL03 Florissant 3,5,47
VTD FL06 Florissant 6,13
VTD FL07 Flor.7,22,32,34,39
VTD FL09 Florissant 9,43
VTD FL10 Florissant 10,44,45
VTD FL21 Florissant 21
VTD FL25 Florissant 25,38
VTD HO01 Hadley 1,2
VTD HO03 Hadley 3,4
VTD HO05 Hadley 5,14
VTD HO06 Hadley 6
VTD HO07 Hadley 7,8
VTD HO09 Hadley 9,17,18
VTD HO10 Hadley 10,11
VTD HO12 Hadley 12
VTD HO13 Hadley 13,30
VTD HO15 Hadley 15,16
VTD HO19 Hadley 19,31
VTD HO20 Hadley 20,22,23
VTD HO21 Hadley 21,24,26
VTD HO25 Hadley 25,27
VTD HO28 Hadley 28,29
VTD HO32 Hadley 32
VTD HO33 Hadley 33
VTD HO34 Hadley 34
VTD HO35 Hadley 35
VTD JO01 Jefferson 1
VTD JO02 Jefferson 2,3,4
VTD JO05 Jefferson 5,10
VTD JO06 Jefferson 6,200
VTD JO07 Jefferson 7,8,9
VTD JO11 Jefferson 11
VTD JO12 Jefferson 12,44,46
VTD JO21 Jefferson 21
VTD JO30 Jefferson 30
VTD JO31 Jefferson 31,45
VTD JO43 Jefferson 43
VTD ML01 Mid1,32,48,50,56,62,205
VTD ML02 Midland 2-3,31,45
VTD ML07 Midland 7,22 (part)
Tract/Block 2147 304
Tract/Block 2147 306
Tract/Block 2147 307
Tract/Block 2147 308
Tract/Block 2147 309
Tract/Block 2147 401
Tract/Block 2147 402
Tract/Block 2147 403

Tract/Block 2147 404
Tract/Block 2147 405
Tract/Block 2147 410
Tract/Block 2147 501A
Tract/Block 2147 502
Tract/Block 2147 503
Tract/Block 2147 504A
Tract/Block 2147 508
Tract/Block 2147 509
Tract/Block 2147 511
VTD ML10 ML10,25,30,37,39,53,209
VTD ML12 Midland 12
VTD ML13 Midland 13,40,58,200
VTD ML14 Midland 14
VTD ML15 Midland 15,36
VTD ML16 Midland 16,29,49,59
VTD ML17 Midland 17,28
VTD ML18 Midland 18,38,57
VTD ML19 Midland 19
VTD ML20 Midland 20
VTD ML21 Midland 21,47
VTD ML26 ML26,41,51-2,204,208
VTD ML34 Midland 34
VTD ML54 Midland 54
VTD ML61 Midland 61
VTD NO01 Normandy 1-2,8
VTD NO03 Normandy 3
VTD NO04 Normandy 4
VTD NO05 Normandy 5,52
VTD NO06 Normandy 6-7
VTD NO09 Normandy 9,37
VTD NO10 Normandy 10,13
VTD NO11 Normandy 11,36,67
VTD NO12 Normandy 12
VTD NO14 Normandy 14,24
VTD NO15 Normandy 15,203-204
VTD NO16 Normandy 16,41,46,68
VTD NO17 Normandy 17
VTD NO18 Normandy 18,48
VTD NO19 Normandy 19
VTD NO20 Nor 20,25-6,35,44,49
VTD NO21 Normandy 21,38,47,54
VTD NO22 Normandy 22,33
VTD NO23 Normandy 23
VTD NO27 Normandy 27
VTD NO28 Normandy 28
VTD NO29 Normandy 29
VTD NO30 Normandy 30
VTD NO31 Normandy 31,66
VTD NO32 Normandy 32,205

VTD NO34 Normandy 34,64
VTD NO39 Normandy 39
VTD NO40 Nor 40,50-51,57,61
VTD NO42 Normandy 42
VTD NO43 Normandy 43
VTD NO45 Normandy 45
VTD NO53 Nor 53,55,59-60,200
VTD NO56 Normandy 56
VTD NO58 Normandy 58
VTD NO62 Normandy 62-63,69
VTD NO65 Normandy 65
VTD NW02 Northwest 2
VTD NW04 Northwest 4,6
VTD NW18 Northwest 18
VTD NW19 Northwest 19
VTD NW28 Northwest 28
VTD SF01 St Ferdinand 1,36,52
VTD SF02 Saint Ferdinand 2
VTD SF03 Saint Ferdinand 3
VTD SF04 Saint Ferdinand 4
VTD SF05 St Ferdinand 5-6,58
VTD SF07 St Ferdinand 7,55,57
VTD SF08 Saint Ferdinand 8
VTD SF09 Saint Ferdinand 9
VTD SF10 Saint Ferdinand 10
VTD SF11 St Ferdi 11,26,43,46
VTD SF12 St Ferdinand 12,17
VTD SF13 St Ferdinand 13,14
VTD SF15 St Ferdi. 15,16,48,60
VTD SF18 St Ferdinand 18,28
VTD SF19 Saint Ferdinand 19
VTD SF20 St Ferdinand 20,38
VTD SF21 St Ferdinand 21,54
VTD SF22 St Ferd22,24,34,37,56
VTD SF23 St Ferdinand 23,39,63
VTD SF25 St Ferdinand 25,42,53
VTD SF27 Saint Ferdinand 27
VTD SF29 StF 29,30,41,49,50-1
VTD SF31 Saint Ferdinand 31
VTD SF32 Saint Ferdinand 32
VTD SF33 St Ferdinand 33,35
VTD SF40 St Ferdinand 40,45
VTD SF44 Saint Ferdinand 44
VTD SF47 St Ferdinand 47,59
VTD SF61 Saint Ferdinand 61
VTD SF62 Saint Ferdinand 62
VTD SL01 Spanish Lake 1-2
VTD SL03 Spanish Lake 3
VTD SL04 Spanish Lake 4
VTD SL05 Spanish Lake 5

VTD SL06 Spanish Lake 6
VTD SL07 Spanish Lake 7,24,43
VTD SL08 Spanish Lake 8,30-31
VTD SL09 Spanish Lake 9
VTD SL10 Spanish Lake 10
VTD SL11 Spanish Lake 11,35
VTD SL12 Spanish Lake 12,20
VTD SL13 Spanish Lake 13,34
VTD SL14 Spanish Lake 14,26
VTD SL15 Spanish Lake 15,22
VTD SL16 Spanish Lake 16
VTD SL17 Spanish Lake 17
VTD SL18 Spanish Lake 18
VTD SL19 Span Lk 19,36,41,44
VTD SL21 Spanish Lk 21,25,33
VTD SL23 Spanish Lake 23,39
VTD SL27 Spanish Lake 27,40
VTD SL28 Spanish Lake 28,42
VTD SL29 Spanish Lake 29
VTD SL32 Spanish Lake 32
VTD SL37 Spanish Lake 37
VTD SL38 Spanish Lake 38

ST. LOUIS CITY (part)
VTD 0101 Ward 01 Precinct 01
VTD 0102 Ward 01 Precinct 02
VTD 0103 Ward 01 Precinct 03
VTD 0104 Ward 01 Precinct 04
VTD 0105 Ward 01 Precinct 05
VTD 0106 Ward 01 Precinct 06
VTD 0107 Ward 01 Precinct 07
VTD 0108 Ward 01 Precinct 08
VTD 0109 Ward 01 Precinct 09
VTD 0110 Ward 01 Precinct 10
VTD 0111 Ward 01 Precinct 11
VTD 0112 Ward 01 Precinct 12
VTD 0113 Ward 01 Precinct 13
VTD 0201 Ward 02 Precinct 01
VTD 0202 Ward 02 Precinct 02
VTD 0203 Ward 02 Precinct 03
VTD 0204 Ward 02 Precinct 04
VTD 0205 Ward 02 Precinct 05
VTD 0206 Ward 02 Precinct 06
VTD 0207 Ward 02 Precinct 07
VTD 0208 Ward 02 Precinct 08
VTD 0209 Ward 02 Precinct 09
VTD 0210 Ward 02 Precinct 10
VTD 0211 Ward 02 Precinct 11
VTD 0301 Ward 03 Precinct 01
VTD 0302 Ward 03 Precinct 02
VTD 0303 Ward 03 Precinct 03

VTD 0304 Ward 03 Precinct 04
VTD 0305 Ward 03 Precinct 05
VTD 0306 Ward 03 Precinct 06
VTD 0307 Ward 03 Precinct 07
VTD 0308 Ward 03 Precinct 08
VTD 0309 Ward 03 Precinct 09
VTD 0310 Ward 03 Precinct 10
VTD 0311 Ward 03 Precinct 11
VTD 0312 Ward 03 Precinct 12
VTD 0401 Ward 04 Precinct 01
VTD 0402 Ward 04 Precinct 02
VTD 0403 Ward 04 Precinct 03
VTD 0404 Ward 04 Precinct 04
VTD 0405 Ward 04 Precinct 05
VTD 0406 Ward 04 Precinct 06
VTD 0407 Ward 04 Precinct 07
VTD 0408 Ward 04 Precinct 08
VTD 0409 Ward 04 Precinct 09
VTD 0410 Ward 04 Precinct 10
VTD 0411 Ward 04 Precinct 11
VTD 0412 Ward 04 Precinct 12
VTD 0413 Ward 04 Precinct 13
VTD 0414 Ward 04 Precinct 14
VTD 044A Ward 04 Precinct 04A
VTD 0501 Ward 05 Precinct 01
VTD 0502 Ward 05 Precinct 02
VTD 0503 Ward 05 Precinct 03
VTD 0504 Ward 05 Precinct 04
VTD 0505 Ward 05 Precinct 05
VTD 0506 Ward 05 Precinct 06
VTD 0507 Ward 05 Precinct 07
VTD 0508 Ward 05 Precinct 08
VTD 0509 Ward 05 Precinct 09
VTD 0510 Ward 05 Precinct 10
VTD 0511 Ward 05 Precinct 11
VTD 0601 Ward 06 Precinct 01
VTD 0602 Ward 06 Precinct 02
VTD 0603 Ward 06 Precinct 03
VTD 0604 Ward 06 Precinct 04
VTD 0605 Ward 06 Precinct 05
VTD 0606 Ward 06 Precinct 06
VTD 0607 Ward 06 Precinct 07
VTD 0608 Ward 06 Precinct 08
VTD 0609 Ward 06 Precinct 09
VTD 0610 Ward 06 Precinct 10
VTD 0611 Ward 06 Precinct 11
VTD 0612 Ward 06 Precinct 12
VTD 0613 Ward 06 Precinct 13
VTD 0614 Ward 06 Precinct 14
VTD 0615 Ward 06 Precinct 15

VTD 0616 Ward 06 Precinct 16
VTD 0617 Ward 06 Precinct 17
VTD 0702 Ward 07 Precinct 02
VTD 0703 Ward 07 Precinct 03
VTD 0707 Ward 07 Precinct 07
VTD 0708 Ward 07 Precinct 08
VTD 0709 Ward 07 Precinct 09
VTD 0710 Ward 07 Precinct 10
VTD 0711 Ward 07 Precinct 11
VTD 0712 Ward 07 Precinct 12
VTD 0713 Ward 07 Precinct 13
VTD 0801 Ward 08 Precinct 01
VTD 0802 Ward 08 Precinct 02
VTD 0803 Ward 08 Precinct 03
VTD 0807 Ward 08 Precinct 07
VTD 0809 Ward 08 Precinct 09 (part)
  Tract/Block 1172 205
  Tract/Block 1172 206
  Tract/Block 1172 302
  Tract/Block 1172 305
  Tract/Block 1172 402
  Tract/Block 1172 403
VTD 0810 Ward 08 Precinct 10
VTD 0811 Ward 08 Precinct 11
VTD 0812 Ward 08 Precinct 12
VTD 1515 Ward 15 Precinct 15
VTD 1701 Ward 17 Precinct 01
VTD 1702 Ward 17 Precinct 02
VTD 1703 Ward 17 Precinct 03
VTD 1704 Ward 17 Precinct 04
VTD 1705 Ward 17 Precinct 05
VTD 1706 Ward 17 Precinct 06
VTD 1707 Ward 17 Precinct 07
VTD 1708 Ward 17 Precinct 08
VTD 1709 Ward 17 Precinct 09
VTD 1710 Ward 17 Precinct 10
VTD 1711 Ward 17 Precinct 11
VTD 1712 Ward 17 Precinct 12
VTD 1713 Ward 17 Precinct 13
VTD 1714 Ward 17 Precinct 14
VTD 1715 Ward 17 Precinct 15
VTD 1801 Ward 18 Precinct 01
VTD 1802 Ward 18 Precinct 02
VTD 1803 Ward 18 Precinct 03
VTD 1804 Ward 18 Precinct 04
VTD 1805 Ward 18 Precinct 05
VTD 1806 Ward 18 Precinct 06
VTD 1807 Ward 18 Precinct 07
VTD 1808 Ward 18 Precinct 08
VTD 1809 Ward 18 Precinct 09

VTD 1810 Ward 18 Precinct 10
VTD 1811 Ward 18 Precinct 11
VTD 1812 Ward 18 Precinct 12
VTD 1813 Ward 18 Precinct 13
VTD 1814 Ward 18 Precinct 14
VTD 1901 Ward 19 Precinct 01
VTD 1902 Ward 19 Precinct 02
VTD 1903 Ward 19 Precinct 03
VTD 1904 Ward 19 Precinct 04
VTD 1905 Ward 19 Precinct 05
VTD 1906 Ward 19 Precinct 06
VTD 1907 Ward 19 Precinct 07
VTD 1908 Ward 19 Precinct 08
VTD 1909 Ward 19 Precinct 09
VTD 1910 Ward 19 Precinct 10
VTD 1911 Ward 19 Precinct 11
VTD 1912 Ward 19 Precinct 12
VTD 1913 Ward 19 Precinct 13
VTD 1914 Ward 19 Precinct 14
VTD 2001 Ward 20 Precinct 01
VTD 2002 Ward 20 Precinct 02
VTD 2003 Ward 20 Precinct 03
VTD 2004 Ward 20 Precinct 04
VTD 2005 Ward 20 Precinct 05
VTD 2006 Ward 20 Precinct 06
VTD 2007 Ward 20 Precinct 07
VTD 2008 Ward 20 Precinct 08
VTD 2009 Ward 20 Precinct 09
VTD 2010 Ward 20 Precinct 10
VTD 2011 Ward 20 Precinct 11
VTD 2012 Ward 20 Precinct 12
VTD 2013 Ward 20 Precinct 13
VTD 2014 Ward 20 Precinct 14
VTD 2015 Ward 20 Precinct 15
VTD 2101 Ward 21 Precinct 01
VTD 2102 Ward 21 Precinct 02
VTD 2103 Ward 21 Precinct 03
VTD 2104 Ward 21 Precinct 04
VTD 2105 Ward 21 Precinct 05
VTD 2106 Ward 21 Precinct 06
VTD 2107 Ward 21 Precinct 07
VTD 2108 Ward 21 Precinct 08
VTD 2109 Ward 21 Precinct 09
VTD 2110 Ward 21 Precinct 10
VTD 2111 Ward 21 Precinct 11
VTD 2112 Ward 21 Precinct 12
VTD 2113 Ward 21 Precinct 13
VTD 2201 Ward 22 Precinct 01
VTD 2202 Ward 22 Precinct 02
VTD 2203 Ward 22 Precinct 03

VTD 2204 Ward 22 Precinct 04
VTD 2205 Ward 22 Precinct 05
VTD 2206 Ward 22 Precinct 06
VTD 2207 Ward 22 Precinct 07
VTD 2208 Ward 22 Precinct 08
VTD 2209 Ward 22 Precinct 09
VTD 2210 Ward 22 Precinct 10
VTD 2601 Ward 26 Precinct 01
VTD 2602 Ward 26 Precinct 02
VTD 2603 Ward 26 Precinct 03
VTD 2604 Ward 26 Precinct 04
VTD 2605 Ward 26 Precinct 05
VTD 2606 Ward 26 Precinct 06
VTD 2607 Ward 26 Precinct 07
VTD 2608 Ward 26 Precinct 08
VTD 2609 Ward 26 Precinct 09
VTD 2610 Ward 26 Precinct 10
VTD 2611 Ward 26 Precinct 11
VTD 2612 Ward 26 Precinct 12
VTD 2701 Ward 27 Precinct 01
VTD 2702 Ward 27 Precinct 02
VTD 2703 Ward 27 Precinct 03
VTD 2704 Ward 27 Precinct 04
VTD 2705 Ward 27 Precinct 05
VTD 2706 Ward 27 Precinct 06
VTD 2707 Ward 27 Precinct 07
VTD 2708 Ward 27 Precinct 08
VTD 2709 Ward 27 Precinct 09
VTD 2710 Ward 27 Precinct 10
VTD 2711 Ward 27 Precinct 11
VTD 2804 Ward 28 Precinct 04
VTD 2805 Ward 28 Precinct 05
VTD 2806 Ward 28 Precinct 06
VTD 2807 Ward 28 Precinct 07
VTD 2808 Ward 28 Precinct 08
VTD 2809 Ward 28 Precinct 09
VTD 2810 Ward 28 Precinct 10
VTD 2811 Ward 28 Precinct 11
VTD 2812 Ward 28 Precinct 12
VTD 2813 Ward 28 Precinct 13
VTD 2814 Ward 28 Precinct 14
VTD 613A Ward 06 Precinct 13A**]**

[128.352. SECOND CONGRESSIONAL DISTRICT (1990 CENSUS). — The second district shall be composed of the following:
ST. CHARLES County (part)
VTD 0001 Kampville
VTD 0004 Orchard Farm
VTD 0005 Portage Des Sioux
VTD 0006 West Alton

VTD 0007 Cherokee
VTD 001A Kampville A
VTD 002A Seeburger A
VTD 002B Seeburger B
VTD 003A Iffrig A-17
VTD 003B Iffrig B-18
VTD 0061 Monroe
VTD 0062 St. Charles Hills
VTD 0063 St. Andrews
VTD 0070 B.Hills-Fairway71-19
VTD 0072 Pralle
VTD 0080 Herit-Jungs81-R.B.87
VTD 0082 Becky David (part)
Tract/Block 311198401
Tract/Block 311198402
Tract/Block 311198403
Tract/Block 311198404
Tract/Block 311198405
Tract/Block 311198501B
Tract/Block 311198506
Tract/Block 311198507
VTD 0083 Woodcliff (part)
Tract/Block 311198110C
Tract/Block 311198113B
Tract/Block 311198411
Tract/Block 311198412
Tract/Block 311198511
Tract/Block 311198512
Tract/Block 311198514
Tract/Block 311198520
Tract/Block 311198521
Tract/Block 311198522
Tract/Block 311198523
Tract/Block 311198524
Tract/Block 311198525
Tract/Block 311198526
Tract/Block 311198527
VTD 0086 Arlington
VTD 0100 Mc Clay
VTD 0101 Graybridge
VTD 0102 Tanglewood
VTD 0103 Cave Springs
VTD 0104 Hi Point
VTD 0105 Millwood
VTD 0106 Spencer
VTD 0107 Oak Creek-Dogwood110
VTD 0108 Crescent Hills
VTD 0109 Cedar Ridge
VTD 0111 Ward 1 Pct. 11
VTD 0112 Ward 1 Pct. 12-19

VTD 0113 Ward 1 Pct. 13-19
VTD 0114 Ward 1 Pct. 14
VTD 0115 Ward 1 Pct. 15-19
VTD 0121 St. Mary's
VTD 0123 Brookmt-ShadowCr.131
VTD 0124 Rabbit Run
VTD 0125 Steeplechase
VTD 0126 MeadowVlly-Fairmt128
VTD 0127 PkChls-Pkwd129-Lk130
VTD 0146 St. Jude
VTD 0221 Ward 2 Pct. 21
VTD 0222 Ward 2 Pct. 22
VTD 0223 Ward 2 Pct. 23
VTD 0224 Ward 2 Pct. 24-20
VTD 0225 Ward 2 Pct. 25
VTD 0226 Ward 2 Pct. 26-18
VTD 0227 Ward 2 Pct. 27
VTD 0228 Ward 2 Pct. 28
VTD 0331 Ward 3 Pct. 31
VTD 0332 Ward 3 Pct. 32
VTD 0333 Ward 3 Pct. 33
VTD 0334 Ward 3 Pct. 34
VTD 0335 Ward 3 Pct. 35
VTD 0336 Ward 3 Pct. 36-18
VTD 0441 Ward 4 Pct. 41
VTD 0442 Ward 4 Pct. 42
VTD 0443 Ward 4 Pct. 43
VTD 0444 Ward 4 Pct. 44
VTD 0445 Ward 4 Pct. 45
VTD 0446 Ward 4 Pct. 46
VTD 0551 Ward 5 Pct. 51
VTD 0552 Ward 5 Pct. 52
VTD 0553 Ward 5 Pct. 53
VTD 0554 Ward 5 Pct. 54
VTD 0555 Ward 5 Pct. 55-18
VTD 0556 Ward 5 Pct. 56
VTD 061A Monroe A
VTD 063A St. Andrews A
VTD 063B St. Andrews B
VTD 070A B.Hill-Fairway71A-20
VTD 112A Ward 1 Pct. 12A-20
VTD 113A Ward 1 Pct. 13A-20
VTD 115A Ward 1 Pct. 15A-20
VTD 120A St. Peters A
VTD 120B St. Peters B
VTD 122A Mid Rivers A
VTD 122B Mid Rivers B
VTD 224A Ward 2 Pct. 24A-20
VTD 224B Ward 2 Pct. 24B-18
VTD 226A Ward 2 Pct. 26A-20

VTD 336A Ward 3 Pct. 36A-19
VTD 336B Ward 3 Pct. 36B-20
VTD 555A Ward 5 Pct. 55A-19
ST. LOUIS County (part)
VTD AO01 Airport 1-2,20,22,48
VTD AO03 Airport 3,51
VTD AO04 Airport 4,37
VTD AO07 Airport 7,52
VTD AO08 Airport 8
VTD AO24 A24-5,29-30,31,33,53
VTD AO27 Airport 27,49
VTD AO28 Air 28,40,47,54-56
VTD AO35 Air35,38,42,45,57-58
VTD BO01 Bonhomme 1
VTD BO02 Bonhomme 2
VTD BO03 Bonhomme 3,42-43,46
VTD BO04 Bonhomme 4,48
VTD BO05 Bonhomme 5
VTD BO06 Bonhomme 6,32
VTD BO07 Bonhomme 7
VTD BO08 Bonhomme 8,22
VTD BO09 Bonhomme 9,19-20,45
VTD BO10 Bonhomme 10
VTD BO12 Bonhomme 12
VTD BO14 Bonhomme 14,33
VTD BO16 Bonhomme 16,37-40
VTD BO17 Bonhomme 17-18,21
VTD BO23 Bonhomme 23,47
VTD BO24 Bonhomme 24
VTD BO25 Bonhomme 25
VTD BO27 Bonhomme 27
VTD BO29 Bonhomme 29,36
VTD BO30 Bonhomme 30,52
VTD BO31 Bonhomme 31
VTD BO34 Bonhomme 34
VTD BO41 Bonhomme 41
VTD CC17 Creve Coeur 17,47,58
VTD CC20 CC20,30,38,46,66,200,204
VTD CC21 Creve Coeur 21,39
VTD CC22 Creve Coeur 22,40
VTD CC23 Creve Coeur 23,33
VTD CC24 Creve Coeur 24,51
VTD CC26 CC26,28,64,74,202-203,205-206 (part)
Tract/Block 215001209A
Tract/Block 215002112
Tract/Block 2156 501
Tract/Block 2156 502
Tract/Block 2156 503
Tract/Block 2156 504
Tract/Block 2156 509

Tract/Block 2156 516
Tract/Block 2156 517
Tract/Block 2156 518A
Tract/Block 2156 518B
VTD CC29 Creve Coeur 29
VTD CC31 CC31-2,36-7,44,55-56,72-73
VTD CC35 CC35,48,52,67-69
VTD CC50 Creve Coeur 50,57,59
VTD CC53 Crv Coeur 53,70,75-6
VTD CC54 Creve Coeur 54,61,71
VTD CC60 Creve Coeur 60
VTD CL01 Clayton 1,25
VTD CL07 Clayton 7,68
VTD CL09 Clayton9,42,53,64-65
VTD CL12 Clayton 12
VTD CL13 Clayton 13,63,69
VTD CL14 Clayton 14
VTD CL15 Clayton 15-16
VTD CL17 Clay. 17,19,27,29,62
VTD CL18 Clay. 18,34,36,40,60
VTD CL20 Clayton 20,24,31,38
VTD CL26 Clayton 26,55-57
VTD CL28 Clayton 28
VTD CL30 Clayton 30
VTD CL35 Clayton 35,37,46
VTD CL39 Clayton 39,51,58-59
VTD CL41 Clayton 41
VTD CL43 Clayton 43
VTD CL45 Clayton 45,67
VTD CL47 Clayton 47,66
VTD CL48 Clayton 48,52
VTD CL49 Clayton 49-50
VTD FL04 Florissant 4,11
VTD FL08 Florissant 8
VTD FL12 Flor.12,33,36,46
VTD FL14 Florissant 14,28
VTD FL15 Florissant 15
VTD FL16 Flo16,18-9,24,26,29,41,42,46
VTD FL17 Florissant 17
VTD FL20 Florissant 20
VTD FL23 Florissant 23
VTD FL27 Florissant 27,31
VTD FL30 Florissant 30,35
VTD FL37 Florissant 37
VTD FL40 Florissant 40
VTD JO23 Jefferson 23,48 (part)
Tract/Block 2193 207
Tract/Block 2193 208
Tract/Block 2193 210
Tract/Block 2193 211

Tract/Block 2193 216
Tract/Block 2193 301
Tract/Block 2193 302
Tract/Block 2193 303
Tract/Block 2193 306
Tract/Block 2193 308
Tract/Block 2193 309
Tract/Block 2193 310
Tract/Block 2193 311
Tract/Block 2193 312
Tract/Block 2193 313
Tract/Block 2193 314
VTD JO29 Jefferson 29,41,42
VTD JO32 Jefferson 32,33
VTD JO34 Jefferson 34,38
VTD JO35 Jefferson 35,36,40
VTD JO37 Jefferson 37,39
VTD LC01 L&C1,14,6,18,32,35,39,40,26
VTD LC02 Lewis & Clark 2
VTD LC03 Lewis & Clark 3
VTD LC04 Lewis & Clark 4
VTD LC05 Lewis & Clark 5
VTD LC07 Lewis&Clark 7,13,34
VTD LC08 Lewis & Clark 8,22
VTD LC09 Lewis & Clark 9,37
VTD LC10 Lewis & Clark 10
VTD LC11 L & C 11,12,16
VTD LC15 Lewis & Clark 15,33
VTD LC17 Lewis & Clark 17,23
VTD LC19 Lewis & Clark 19,27
VTD LC20 Lewis & Clark 20
VTD LC21 Lewis & Clark 21,31
VTD LC24 Lewis & Clark 24,41
VTD LC25 Lewis & Clark 25
VTD LC28 Lewis & Clark 28
VTD LC29 Lewis & Clark 29,30
VTD LC36 Lewis & Clark 36
VTD LC38 Lewis & Clark 38
VTD LC42 Lewis & Clark 42
VTD ME01 Mer1,37,45,48,65,22,24
VTD ME02 Mer2,5,7,15,21,25,29-30,42-44,49-50,54,57,59-64,66
VTD ME03 Mer3,4,9,14,16-7,26,32,34,46
VTD ME06 Meramec 6,41
VTD ME08 Mer8,27-28,31,35-36,38-39,52-53,55
VTD ME10 Mer10,33,40,51,56,58,67
VTD ME12 Meramec 12,13,23
VTD ME18 Meramec 18,20
VTD ML04 Midland 4
VTD ML05 Midland 5,8
VTD ML06 Midland 6

VTD ML07 Midland 7,22 (part)
  Tract/Block 2147 406
  Tract/Block 2147 407
  Tract/Block 2147 409
VTD ML09 Midland 9
VTD ML11 Midland 11
VTD ML23 Midland 23
VTD ML24 Midland 24
VTD ML27 Midland 27,42,60,206
VTD ML33 Midland 33,43,210-11
VTD ML35 Midland 35,44,63
VTD ML46 Midland 46
VTD ML55 Midland 55
VTD MR01 Missouri River 1,2
VTD MR03 Missouri River 3,62
VTD MR04 MR4,6,10-12,8,48-50,54,61,71
VTD MR05 Missouri River 5
VTD MR07 Missouri River 7
VTD MR09 MR 9,65,68,210
VTD MR13 Missouri River 13,83
VTD MR14 Missouri River 14,80
VTD MR15 Missouri River 15
VTD MR16 Missouri River 16,47
VTD MR17 MR 17,59,81,205,215
VTD MR18 MR18,19,43,77-8,214
VTD MR20 MR20,24-25,39,44-45,35-36,58,67,70,76
VTD MR21 Missouri River 21
VTD MR22 Missouri River 22
VTD MR23 Missouri River 23,56
VTD MR26 Missouri River 26
VTD MR27 Missouri River 27,64
VTD MR28 Missouri River 28
VTD MR29 Missouri River 29,41
VTD MR30 Missouri R 30,38,73
VTD MR31 Missouri River 31,72
VTD MR32 Missouri River 32
VTD MR33 Missouri R 33,66,74
VTD MR34 Missouri R 34,40,51
VTD MR35 Mo R 35-36,200-201
VTD MR37 Mo R 37,57,69,75
VTD MR42 Missouri River 42,46
VTD MR52 Missouri River 52-53
VTD MR55 Missouri River 55
VTD MR60 Missouri River 60
VTD MR63 Missouri River 63
VTD NW01 Northwest 1
VTD NW03 Northwest 3,53
VTD NW05 NW 5,10,11,60,61
VTD NW07 NW 7,30,38,44,54
VTD NW08 Northwest 8,32

VTD NW09 NW 9,22-3,51-2,46-7
VTD NW12 Northwest 12
VTD NW13 Northwest 13
VTD NW14 Northwest 14
VTD NW15 Northwest 15
VTD NW16 Northwest 16,33
VTD NW17 Northwest 17,45
VTD NW20 NW 20,26,40,43,59,62
VTD NW21 NW21,35-36,58,64
VTD NW24 NW 24,31,42,63
VTD NW25 Northwest 25,48
VTD NW29 Northwest 29
VTD NW34 Northwest 34
VTD NW36 Northwest 36,49
VTD NW37 Northwest 37,55
VTD NW39 Northwest 39
VTD NW41 Northwest 41
VTD NW50 Northwest 50
VTD NW57 Northwest 57
VTD QO01 Q1-2,19,68-9,71,98-9
VTD QO03 Queeny 3,60,81,89,94
VTD QO04 Queeny 4,79,92
VTD QO05 Queeny 5,54,100
VTD QO06 Queeny 6
VTD QO07 Queeny7,10,46,216,96
VTD QO08 Queeny 8,64,90,215
VTD QO09 Q9,23,55,80,86-88,101
VTD QO11 Queeny 11
VTD QO12 Queeny 12,17,202
VTD QO13 Q13,15-16,20,25,83-4,95,213
VTD QO14 Queeny 14,217
VTD QO18 Queeny 18,45,214
VTD QO21 Queeny 21,37,97
VTD QO22 Queeny 22
VTD QO24 Q24,40-1,44,56,70
VTD QO26 Queeny 26,27
VTD QO28 Queeny 28,58-59
VTD QO29 Queeny 29
VTD QO30 Queeny 30
VTD QO31 Queeny 31,77
VTD QO32 Q32,35-36,42,51-52,200-201,203
VTD QO33 Queeny 33
VTD QO34 Queeny 34,85,91
VTD QO38 Queeny 38-39,66,211
VTD QO43 Queeny 43
VTD QO47 Queeny 47
VTD QO48 Queeny 48,53,63
VTD QO49 Queeny 49,72-76,208
VTD QO50 Queeny 50
VTD QO57 Queeny 57

VTD QO61 Queeny 61,82,93
VTD QO62 Queeny 62,65
VTD QO67 Queeny 67,204
VTD QO78 Queeny 78,209**]**

[128.354. THIRD CONGRESSIONAL DISTRICT (1990 CENSUS). — The third district shall be composed of the following:
JEFFERSON County
STE. GENEVIEVE County
ST. LOUIS County (part)
VTD BO11 Bonhomme 11,26,44
VTD BO13 Bonhomme 13
VTD BO15 Bonhomme 15,35,50-51
VTD BO28 Bonhomme 28
VTD BO49 Bonhomme 49
VTD CO01 Concord 1,33
VTD CO02 Concord 2
VTD CO03 Concord 3
VTD CO04 Concord 4
VTD CO05 Con5-7,19-20,27,40,41,54-55,57
VTD CO08 Concord 8-9
VTD CO10 Con10,22,23,29,52,63
VTD CO11 Concord 11,21,51
VTD CO12 Concord 12,15,48
VTD CO13 Concord 13,30
VTD CO14 Con. 14,44,46,60-62
VTD CO16 Concord 16
VTD CO17 Concord 17
VTD CO18 Concord 18,58
VTD CO24 Concord 24
VTD CO25 Concord 25,31,32,49
VTD CO26 Concord 26,35,36,37
VTD CO28 Concord 28
VTD CO34 Concord 34
VTD CO38 Concord 38
VTD CO39 Concord 39,45,47
VTD CO42 Concord 42
VTD CO43 Concord 43
VTD CO53 Concord 53
VTD G026 Gravois 26
VTD GO01 Gravois 1
VTD GO02 Gravois 2,7
VTD GO03 Gravois 3,47
VTD GO04 Gravois 4
VTD GO05 Gravois 5
VTD GO06 Gravois 6,57
VTD GO08 Gravois 8
VTD GO09 Gravois 9,29,41
VTD GO10 Gravois 10,16
VTD GO11 Gravois 11,12

VTD GO13 Gravois 13
VTD GO14 Gravois 14
VTD GO15 Gravois 15,52
VTD GO17 Gravois 17,50
VTD GO18 Gravois 18,37
VTD GO19 Gravois 19
VTD GO20 Gravois 20,38
VTD GO21 Gr 21,22,23,31,39,61
VTD GO24 Gravois 24
VTD GO25 Gravois 25
VTD GO26 Gravois 26
VTD GO27 Gravois 27,54,55
VTD GO28 Gravois 28
VTD GO30 Gravois 30,34,51
VTD GO32 Gravois 32,48,60
VTD GO33 Gravois 33,40,42
VTD GO35 Gravois 35,43,44,49
VTD GO36 Gravois 36
VTD GO45 Gravois 45
VTD GO46 Gravois 46
VTD GO53 Gravois 53,56
VTD GO58 Gravois 58,59
VTD JO13 Jefferson 13,20
VTD JO14 Jefferson 14
VTD JO15 Jefferson 15,27
VTD JO16 Jefferson 16,17,28
VTD JO18 Jefferson 18,24
VTD JO19 Jefferson 19
VTD JO22 Jefferson 22,25,26
VTD JO23 Jefferson 23,48 (part)
Tract/Block 2193 204
Tract/Block 2193 205
Tract/Block 2193 206
Tract/Block 2193 209
Tract/Block 2193 212
Tract/Block 2193 213
Tract/Block 2193 214
Tract/Block 2193 215
Tract/Block 2193 307
VTD JO47 Jefferson 47
VTD LO01 Lemay 1
VTD LO02 Lemay 2-3,33-35
VTD LO04 Lemay 4,6,41
VTD LO05 Lemay 5
VTD LO07 Lemay 7
VTD LO08 Lemay 8
VTD LO09 Lemay 9
VTD LO10 Lemay 10
VTD LO11 Lemay 11,20
VTD LO12 Lemay 12,21

VTD LO13 Lemay 13
VTD LO14 Lemay 14
VTD LO15 Lemay 15,18,46
VTD LO16 Lemay 16,44,48
VTD LO17 Lemay 17,36,40,47,50-1
VTD LO19 Lemay 19
VTD LO22 Lemay 22
VTD LO23 Lemay 23,30,49
VTD LO24 Lemay 24
VTD LO25 Lemay 25-28
VTD LO29 Lemay 29
VTD LO31 Lemay 31
VTD LO32 Lemay 32,42
VTD LO37 Lemay 37
VTD LO38 Lemay 38
VTD LO39 Lemay 39
VTD LO43 Lemay 43
VTD LO45 Lemay 45

ST. LOUIS CITY (part)
VTD 0701 Ward 07 Precinct 01
VTD 0704 Ward 07 Precinct 04
VTD 0705 Ward 07 Precinct 05
VTD 0706 Ward 07 Precinct 06
VTD 0804 Ward 08 Precinct 04
VTD 0805 Ward 08 Precinct 05
VTD 0806 Ward 08 Precinct 06
VTD 0808 Ward 08 Precinct 08
VTD 0809 Ward 08 Precinct 09 (part)
Tract/Block 1172 301
VTD 0901 Ward 09 Precinct 01
VTD 0902 Ward 09 Precinct 02
VTD 0903 Ward 09 Precinct 03
VTD 0904 Ward 09 Precinct 04
VTD 0905 Ward 09 Precinct 05
VTD 0906 Ward 09 Precinct 06
VTD 0907 Ward 09 Precinct 07
VTD 0908 Ward 09 Precinct 08
VTD 0909 Ward 09 Precinct 09
VTD 0910 Ward 09 Precinct 10
VTD 0911 Ward 09 Precinct 11
VTD 0912 Ward 09 Precinct 12
VTD 0913 Ward 09 Precinct 13
VTD 0914 Ward 09 Precinct 14
VTD 1001 Ward 10 Precinct 01
VTD 1002 Ward 10 Precinct 02
VTD 1003 Ward 10 Precinct 03
VTD 1004 Ward 10 Precinct 04
VTD 1005 Ward 10 Precinct 05
VTD 1006 Ward 10 Precinct 06
VTD 1007 Ward 10 Precinct 07

VTD 1008 Ward 10 Precinct 08
VTD 1009 Ward 10 Precinct 09
VTD 1010 Ward 10 Precinct 10
VTD 1011 Ward 10 Precinct 11
VTD 1101 Ward 11 Precinct 01
VTD 1102 Ward 11 Precinct 02
VTD 1103 Ward 11 Precinct 03
VTD 1104 Ward 11 Precinct 04
VTD 1105 Ward 11 Precinct 05
VTD 1106 Ward 11 Precinct 06
VTD 1107 Ward 11 Precinct 07
VTD 1108 Ward 11 Precinct 08
VTD 1109 Ward 11 Precinct 09
VTD 1110 Ward 11 Precinct 10
VTD 1111 Ward 11 Precinct 11
VTD 1201 Ward 12 Precinct 01
VTD 1202 Ward 12 Precinct 02
VTD 1203 Ward 12 Precinct 03
VTD 1204 Ward 12 Precinct 04
VTD 1205 Ward 12 Precinct 05
VTD 1206 Ward 12 Precinct 06
VTD 1207 Ward 12 Precinct 07
VTD 1208 Ward 12 Precinct 08
VTD 1209 Ward 12 Precinct 09
VTD 1210 Ward 12 Precinct 10
VTD 1211 Ward 12 Precinct 11
VTD 1212 Ward 12 Precinct 12
VTD 1213 Ward 12 Precinct 13
VTD 1214 Ward 12 Precinct 14
VTD 1215 Ward 12 Precinct 15
VTD 1216 Ward 12 Precinct 16
VTD 1217 Ward 12 Precinct 17
VTD 1218 Ward 12 Precinct 18
VTD 1219 Ward 12 Precinct 19
VTD 1220 Ward 12 Precinct 20
VTD 1301 Ward 13 Precinct 01
VTD 1302 Ward 13 Precinct 02
VTD 1303 Ward 13 Precinct 03
VTD 1304 Ward 13 Precinct 04
VTD 1305 Ward 13 Precinct 05
VTD 1306 Ward 13 Precinct 06
VTD 1307 Ward 13 Precinct 07
VTD 1308 Ward 13 Precinct 08
VTD 1309 Ward 13 Precinct 09
VTD 1310 Ward 13 Precinct 10
VTD 1311 Ward 13 Precinct 11
VTD 1312 Ward 13 Precinct 12
VTD 1313 Ward 13 Precinct 13
VTD 1314 Ward 13 Precinct 14
VTD 1315 Ward 13 Precinct 15

VTD 1316 Ward 13 Precinct 16
VTD 1401 Ward 14 Precinct 01
VTD 1402 Ward 14 Precinct 02
VTD 1403 Ward 14 Precinct 03
VTD 1404 Ward 14 Precinct 04
VTD 1405 Ward 14 Precinct 05
VTD 1406 Ward 14 Precinct 06
VTD 1407 Ward 14 Precinct 07
VTD 1408 Ward 14 Precinct 08
VTD 1409 Ward 14 Precinct 09
VTD 1410 Ward 14 Precinct 10
VTD 1411 Ward 14 Precinct 11
VTD 1412 Ward 14 Precinct 12
VTD 1413 Ward 14 Precinct 13
VTD 1414 Ward 14 Precinct 14
VTD 1415 Ward 14 Precinct 15
VTD 1416 Ward 14 Precinct 16
VTD 1417 Ward 14 Precinct 17
VTD 1501 Ward 15 Precinct 01
VTD 1502 Ward 15 Precinct 02
VTD 1503 Ward 15 Precinct 03
VTD 1504 Ward 15 Precinct 04
VTD 1505 Ward 15 Precinct 05
VTD 1506 Ward 15 Precinct 06
VTD 1507 Ward 15 Precinct 07
VTD 1508 Ward 15 Precinct 08
VTD 1509 Ward 15 Precinct 09
VTD 1510 Ward 15 Precinct 10
VTD 1511 Ward 15 Precinct 11
VTD 1512 Ward 15 Precinct 12
VTD 1513 Ward 15 Precinct 13
VTD 1514 Ward 15 Precinct 14
VTD 1601 Ward 16 Precinct 01
VTD 1602 Ward 16 Precinct 02
VTD 1603 Ward 16 Precinct 03
VTD 1604 Ward 16 Precinct 04
VTD 1605 Ward 16 Precinct 05
VTD 1606 Ward 16 Precinct 06
VTD 1607 Ward 16 Precinct 07
VTD 1608 Ward 16 Precinct 08
VTD 1609 Ward 16 Precinct 09
VTD 1610 Ward 16 Precinct 10
VTD 1611 Ward 16 Precinct 11
VTD 1612 Ward 16 Precinct 12
VTD 1613 Ward 16 Precinct 13
VTD 1614 Ward 16 Precinct 14
VTD 1615 Ward 16 Precinct 15
VTD 1616 Ward 16 Precinct 16
VTD 1617 Ward 16 Precinct 17
VTD 1618 Ward 16 Precinct 18

VTD 1619 Ward 16 Precinct 19
VTD 2301 Ward 23 Precinct 01
VTD 2302 Ward 23 Precinct 02
VTD 2303 Ward 23 Precinct 03
VTD 2304 Ward 23 Precinct 04
VTD 2305 Ward 23 Precinct 05
VTD 2306 Ward 23 Precinct 06
VTD 2307 Ward 23 Precinct 07
VTD 2308 Ward 23 Precinct 08
VTD 2309 Ward 23 Precinct 09
VTD 2310 Ward 23 Precinct 10
VTD 2311 Ward 23 Precinct 11
VTD 2312 Ward 23 Precinct 12
VTD 2313 Ward 23 Precinct 13
VTD 2314 Ward 23 Precinct 14
VTD 2315 Ward 23 Precinct 15
VTD 2316 Ward 23 Precinct 16
VTD 2317 Ward 23 Precinct 17
VTD 2318 Ward 23 Precinct 18
VTD 2401 Ward 24 Precinct 01
VTD 2402 Ward 24 Precinct 02
VTD 2403 Ward 24 Precinct 03
VTD 2404 Ward 24 Precinct 04
VTD 2405 Ward 24 Precinct 05
VTD 2406 Ward 24 Precinct 06
VTD 2407 Ward 24 Precinct 07
VTD 2408 Ward 24 Precinct 08
VTD 2409 Ward 24 Precinct 09
VTD 2410 Ward 24 Precinct 10
VTD 2411 Ward 24 Precinct 11
VTD 2412 Ward 24 Precinct 12
VTD 2413 Ward 24 Precinct 13
VTD 2414 Ward 24 Precinct 14
VTD 2415 Ward 24 Precinct 15
VTD 2416 Ward 24 Precinct 16
VTD 2417 Ward 24 Precinct 17
VTD 2501 Ward 25 Precinct 01
VTD 2502 Ward 25 Precinct 02
VTD 2503 Ward 25 Precinct 03
VTD 2504 Ward 25 Precinct 04
VTD 2505 Ward 25 Precinct 05
VTD 2506 Ward 25 Precinct 06
VTD 2507 Ward 25 Precinct 07
VTD 2508 Ward 25 Precinct 08
VTD 2509 Ward 25 Precinct 09
VTD 2510 Ward 25 Precinct 10
VTD 2511 Ward 25 Precinct 11
VTD 2512 Ward 25 Precinct 12
VTD 2513 Ward 25 Precinct 13
VTD 2514 Ward 25 Precinct 14

VTD 2515 Ward 25 Precinct 15
VTD 2516 Ward 25 Precinct 16
VTD 2801 Ward 28 Precinct 01
VTD 2802 Ward 28 Precinct 02
VTD 2803 Ward 28 Precinct 03**]**

[128.356. FOURTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The fourth district shall be composed of the following:
BATES County
BENTON County
CAMDEN County
CASS County
COLE County
DALLAS County
HENRY County
HICKORY County
JACKSON County (part)
VTD S05D Sni-A-Bar 05D & 27 (part)
Tract/Block 0140 113A
Tract/Block 0140 113B
Tract/Block 0140 114A
Tract/Block 0140 115
Tract/Block 014101101A
Tract/Block 014101101C
VTD S060 Sni-A-Bar 06,06A,06B (part)
Tract/Block 0140 107A
Tract/Block 0140 108
Tract/Block 0140 109
Tract/Block 0140 110
Tract/Block 0140 111
Tract/Block 0140 112
Tract/Block 0140 114B
Tract/Block 0140 117
Tract/Block 0140 118
Tract/Block 0140 119
Tract/Block 0140 120
Tract/Block 0140 121
Tract/Block 0140 122
Tract/Block 0140 123
Tract/Block 0140 125
Tract/Block 0140 126
Tract/Block 0140 128
Tract/Block 0140 129
Tract/Block 0140 130
Tract/Block 0140 131
Tract/Block 0140 132
Tract/Block 0140 133
Tract/Block 0140 134
Tract/Block 0140 135
Tract/Block 0140 136A

Tract/Block 0140 142A
Tract/Block 0140 150A
Tract/Block 0140 195
Tract/Block 0140 196
Tract/Block 0140 197
Tract/Block 0140 301
Tract/Block 0140 302
Tract/Block 0140 303
Tract/Block 0140 304
Tract/Block 0140 305
Tract/Block 0140 306
Tract/Block 0140 307
Tract/Block 0140 308
Tract/Block 0140 309
Tract/Block 0140 310
Tract/Block 0140 311
Tract/Block 0140 312
Tract/Block 0140 313
Tract/Block 0140 314
Tract/Block 0140 315
Tract/Block 0140 316
Tract/Block 0140 317
Tract/Block 0140 318
Tract/Block 0140 319
Tract/Block 0140 320
Tract/Block 0140 321
Tract/Block 0140 322
VTD S070 Sni-A-Bar 07 (part)
Tract/Block 0140 101
Tract/Block 0140 102
Tract/Block 0140 103
Tract/Block 0140 104A
Tract/Block 0140 104B
Tract/Block 0140 105A
Tract/Block 0140 154A
Tract/Block 0140 154B
Tract/Block 0140 155A
Tract/Block 0140 156A
Tract/Block 0140 158
Tract/Block 0140 176A
Tract/Block 0140 177
Tract/Block 0140 201
Tract/Block 0140 202
Tract/Block 0140 203
Tract/Block 0140 204
Tract/Block 0140 205
Tract/Block 0140 206
Tract/Block 0140 207
Tract/Block 0140 208
Tract/Block 0140 209

Tract/Block 0140 210
Tract/Block 0140 211
Tract/Block 0140 212
Tract/Block 0140 213
Tract/Block 0140 215
Tract/Block 0140 216
Tract/Block 0140 217
Tract/Block 0140 218
Tract/Block 0140 219
Tract/Block 0140 220
Tract/Block 0140 221
Tract/Block 0140 222
Tract/Block 0140 223
Tract/Block 0140 224
Tract/Block 0140 225
Tract/Block 0140 226
Tract/Block 0140 227
Tract/Block 0140 228
Tract/Block 0140 229
Tract/Block 0140 230
Tract/Block 0140 231
Tract/Block 0140 232
Tract/Block 0140 233
Tract/Block 0140 234
Tract/Block 0140 235
Tract/Block 0140 236
Tract/Block 0140 237
Tract/Block 0140 238
Tract/Block 0140 239
Tract/Block 0140 250
Tract/Block 0140 251
VTD S080 Sni-A-Bar 08
VTD S090 Sni-A-Bar 09
VTD S100 Sni-A-Bar 10
VTD S10A Sni-A-Bar 10A & 10B
VTD S110 Sni-A-Bar 11
VTD S11A Sni-A-Bar 11A
VTD S120 Sni-A-Bar 12
VTD S150 Sni-A-Bar 15
VTD S200 Sni-A-Bar 20
VTD S210 Sni-A-Bar 21
VTD S220 Sni-A-Bar 22 & 22A
VTD S23B Sni-A-Bar 23B
VTD S240 Sni-A-Bar 24
VTD S300 Sni-A-Bar 30 (part)
Tract/Block 014105105
VTD S30A Sni-A-Bar 30A
VTD V010 Van Bur 01,1-A,B,C,D
VTD V020 Van B 2-4,10,10-A-C
VTD V050 Van B 5, 5-A-E

VTD V070 Van Buren 07
VTD V080 Van Buren 08,08A,9
VTD V110 Van Buren 11, 11-A-C
VTD V120 Van Buren 12
VTD V130 Van Buren 13, 13A-B
VTD V140 Van Buren 14, 14A-B
VTD V150 Van Buren 15 & 16
JOHNSON County
LACLEDE County
LAFAYETTE County
MARIES County
MILLER County
MONITEAU County
MORGAN County
OSAGE County
PETTIS County
PULASKI County
ST. CLAIR County
SALINE County
VERNON County
WEBSTER County**]**

[128.358. FIFTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The fifth district shall be composed of the following:
JACKSON County (part)
VTD 0101 KC Wd 01 Pct. 1
VTD 0102 KC Wd 01 Pct. 2
VTD 0103 KC Wd 01 Pct. 3
VTD 0104 KC Wd 01 Pct. 4
VTD 0105 KC Wd 01 Pct. 5
VTD 0106 KC Wd 01 Pct. 6
VTD 0107 KC Wd 01 Pct. 7
VTD 0108 KC Wd 01 Pct. 8
VTD 0109 KC Wd 01 Pct. 9
VTD 0110 KC Wd 01 Pct. 10
VTD 0111 KC Wd 01 Pct. 11
VTD 0201 KC Wd 02 Pct. 1
VTD 0202 KC Wd 02 Pct. 2
VTD 0203 KC Wd 02 Pct. 3
VTD 0204 KC Wd 02 Pct. 4
VTD 0205 KC Wd 02 Pct. 5
VTD 0206 KC Wd 02 Pct. 6
VTD 0207 KC Wd 02 Pct. 7
VTD 0208 KC Wd 02 Pct. 8
VTD 0209 KC Wd 02 Pct. 9
VTD 0210 KC Wd 02 Pct. 10
VTD 0211 KC Wd 02 Pct. 11
VTD 0301 KC Wd 03 Pct. 1
VTD 0302 KC Wd 03 Pct. 2
VTD 0303 KC Wd 03 Pct. 3

VTD 0304 KC Wd 03 Pct. 4
VTD 0305 KC Wd 03 Pct. 5
VTD 0306 KC Wd 03 Pct. 6
VTD 0307 KC Wd 03 Pct. 7
VTD 0308 KC Wd 03 Pct. 8
VTD 0309 KC Wd 03 Pct. 9
VTD 0401 KC Wd 04 Pct. 1
VTD 0402 KC Wd 04 Pct. 2
VTD 0403 KC Wd 04 Pct. 3
VTD 0404 KC Wd 04 Pct. 4
VTD 0405 KC Wd 04 Pct. 5
VTD 0406 KC Wd 04 Pct. 6
VTD 0407 KC Wd 04 Pct. 7
VTD 0408 KC Wd 04 Pct. 8
VTD 0409 KC Wd 04 Pct. 9
VTD 0501 KC Wd 05 Pct. 1
VTD 0502 KC Wd 05 Pct. 2
VTD 0503 KC Wd 05 Pct. 3
VTD 0504 KC Wd 05 Pct. 4
VTD 0505 KC Wd 05 Pct. 5
VTD 0506 KC Wd 05 Pct. 6
VTD 0507 KC Wd 05 Pct. 7
VTD 0508 KC Wd 05 Pct. 8
VTD 0601 KC Wd 06 Pct. 1
VTD 0602 KC Wd 06 Pct. 2
VTD 0603 KC Wd 06 Pct. 3
VTD 0604 KC Wd 06 Pct. 4
VTD 0605 KC Wd 06 Pct. 5
VTD 0606 KC Wd 06 Pct. 6
VTD 0607 KC Wd 06 Pct. 7
VTD 0608 KC Wd 06 Pct. 8
VTD 0609 KC Wd 06 Pct. 9
VTD 0610 KC Wd 06 Pct. 10
VTD 0611 KC Wd 06 Pct. 11
VTD 0701 KC Wd 07 Pct. 1
VTD 0702 KC Wd 07 Pct. 2
VTD 0703 KC Wd 07 Pct. 3
VTD 0704 KC Wd 07 Pct. 4
VTD 0705 KC Wd 07 Pct. 5
VTD 0706 KC Wd 07 Pct. 6
VTD 0707 KC Wd 07 Pct. 7
VTD 0708 KC Wd 07 Pct. 8
VTD 0709 KC Wd 07 Pct. 9
VTD 0710 KC Wd 07 Pct. 10
VTD 0711 KC Wd 07 Pct. 11
VTD 0712 KC Wd 07 Pct. 12
VTD 0713 KC Wd 07 Pct. 13
VTD 0714 KC Wd 07 Pct. 14
VTD 0715 KC Wd 07 Pct. 15
VTD 0716 KC Wd 07 Pct. 16

VTD 0801 KC Wd 08 Pct. 1
VTD 0802 KC Wd 08 Pct. 2
VTD 0803 KC Wd 08 Pct. 3
VTD 0804 KC Wd 08 Pct. 4
VTD 0805 KC Wd 08 Pct. 5
VTD 0806 KC Wd 08 Pct. 6
VTD 0807 KC Wd 08 Pct. 7
VTD 0808 KC Wd 08 Pct. 8
VTD 0809 KC Wd 08 Pct. 9
VTD 0810 KC Wd 08 Pct. 10
VTD 0811 KC Wd 08 Pct. 11
VTD 0812 KC Wd 08 Pct. 12
VTD 0813 KC Wd 08 Pct. 13
VTD 0814 KC Wd 08 Pct. 14
VTD 0901 KC Wd 09 Pct. 1
VTD 0902 KC Wd 09 Pct. 2
VTD 0903 KC Wd 09 Pct. 3
VTD 0904 KC Wd 09 Pct. 4
VTD 0905 KC Wd 09 Pct. 5
VTD 0906 KC Wd 09 Pct. 6
VTD 0907 KC Wd 09 Pct. 7
VTD 0908 KC Wd 09 Pct. 8
VTD 0909 KC Wd 09 Pct. 9
VTD 0910 KC Wd 09 Pct. 10
VTD 0911 KC Wd 09 Pct. 11
VTD 0912 KC Wd 09 Pct. 12
VTD 0913 KC Wd 09 Pct. 13
VTD 0914 KC Wd 09 Pct. 14
VTD 1001 KC Wd 10 Pct. 1
VTD 1002 KC Wd 10 Pct. 2
VTD 1003 KC Wd 10 Pct. 3
VTD 1004 KC Wd 10 Pct. 4
VTD 1005 KC Wd 10 Pct. 5
VTD 1006 KC Wd 10 Pct. 6
VTD 1007 KC Wd 10 Pct. 7
VTD 1008 KC Wd 10 Pct. 8
VTD 1009 KC Wd 10 Pct. 9
VTD 1010 KC Wd 10 Pct. 10
VTD 1011 KC Wd 10 Pct. 11
VTD 1012 KC Wd 10 Pct. 12
VTD 1101 KC Wd 11 Pct. 1
VTD 1102 KC Wd 11 Pct. 2
VTD 1103 KC Wd 11 Pct. 3
VTD 1104 KC Wd 11 Pct. 4
VTD 1105 KC Wd 11 Pct. 5
VTD 1106 KC Wd 11 Pct. 6
VTD 1107 KC Wd 11 Pct. 7
VTD 1108 KC Wd 11 Pct. 8
VTD 1109 KC Wd 11 Pct. 9
VTD 1110 KC Wd 11 Pct. 10

VTD 1111 KC Wd 11 Pct. 11
VTD 1201 KC Wd 12 Pct. 1
VTD 1202 KC Wd 12 Pct. 2
VTD 1203 KC Wd 12 Pct. 3
VTD 1204 KC Wd 12 Pct. 4
VTD 1205 KC Wd 12 Pct. 5
VTD 1206 KC Wd 12 Pct. 6
VTD 1207 KC Wd 12 Pct. 7
VTD 1208 KC Wd 12 Pct. 8
VTD 1209 KC Wd 12 Pct. 9
VTD 1210 KC Wd 12 Pct. 10
VTD 1211 KC Wd 12 Pct. 11
VTD 1212 KC Wd 12 Pct. 12
VTD 1213 KC Wd 12 Pct. 13, 14
VTD 1301 KC Wd 13 Pct. 1
VTD 1302 KC Wd 13 Pct. 2
VTD 1303 KC Wd 13 Pct. 3
VTD 1304 KC Wd 13 Pct. 4
VTD 1305 KC Wd 13 Pct. 5
VTD 1306 KC Wd 13 Pct. 6
VTD 1307 KC Wd 13 Pct. 7
VTD 1308 KC Wd 13 Pct. 8
VTD 1309 KC Wd 13 Pct. 9
VTD 1310 KC Wd 13 Pct. 10
VTD 1311 KC Wd 13 Pct. 11
VTD 1312 KC Wd 13 Pct. 12
VTD 1313 KC Wd 13 Pct. 13
VTD 1401 KC Wd 14 Pct. 1
VTD 1402 KC Wd 14 Pct. 2
VTD 1403 KC Wd 14 Pct. 3
VTD 1404 KC Wd 14 Pct. 4
VTD 1405 KC Wd 14 Pct. 5
VTD 1406 KC Wd 14 Pct. 6
VTD 1407 KC Wd 14 Pct. 7
VTD 1408 KC Wd 14 Pct. 8
VTD 1409 KC Wd 14 Pct. 9
VTD 1410 KC Wd 14 Pct. 10
VTD 1411 KC Wd 14 Pct. 11
VTD 1412 KC Wd 14 Pct. 12
VTD 1413 KC Wd 14 Pct. 13
VTD 1501 KC Wd 15 Pct. 1
VTD 1502 KC Wd 15 Pct. 2
VTD 1503 KC Wd 15 Pct. 3
VTD 1504 KC Wd 15 Pct. 4
VTD 1505 KC Wd 15 Pct. 5
VTD 1506 KC Wd 15 Pct. 6
VTD 1507 KC Wd 15 Pct. 7
VTD 1508 KC Wd 15 Pct. 8
VTD 1509 KC Wd 15 Pct. 9
VTD 1510 KC Wd 15 Pct. 10

VTD 1511 KC Wd 15 Pct. 11
VTD 1512 KC Wd 15 Pct. 12
VTD 1513 KC Wd 15 Pct. 13
VTD 1514 KC Wd 15 Pct. 14
VTD 1601 KC Wd 16 Pct. 1
VTD 1602 KC Wd 16 Pct. 2
VTD 1603 KC Wd 16 Pct. 3
VTD 1604 KC Wd 16 Pct. 4
VTD 1605 KC Wd 16 Pct. 5
VTD 1606 KC Wd 16 Pct. 6
VTD 1607 KC Wd 16 Pct. 7
VTD 1608 KC Wd 16 Pct. 8
VTD 1609 KC Wd 16 Pct. 9
VTD 1610 KC Wd 16 Pct. 10, 14
VTD 1611 KC Wd 16 Pct. 11
VTD 1612 KC Wd 16 Pct. 12
VTD 1613 KC Wd 16 Pct. 13
VTD 1701 KC Wd 17 Pct. 1
VTD 1702 KC Wd 17 Pct. 2
VTD 1703 KC Wd 17 Pct. 3
VTD 1704 KC Wd 17 Pct. 4
VTD 1705 KC Wd 17 Pct. 5
VTD 1706 KC Wd 17 Pct. 6
VTD 1707 KC Wd 17 Pct. 7
VTD 1708 KC Wd 17 Pct. 8
VTD 1709 KC Wd 17 Pct. 9
VTD 1710 KC Wd 17 Pct. 10
VTD 1711 KC Wd 17 Pct. 11
VTD 1712 KC Wd 17 Pct. 12
VTD 1713 KC Wd 17 Pct. 13
VTD 1801 KC Wd 18 Pct. 1
VTD 1802 KC Wd 18 Pct. 2
VTD 1803 KC Wd 18 Pct. 3
VTD 1804 KC Wd 18 Pct. 4
VTD 1805 KC Wd 18 Pct. 5
VTD 1807 KC Wd 18 P 6-8,14-15
VTD 1809 KC Wd 18 Pct. 9 & 10
VTD 180A KC Wd 18 Pct. 16A
VTD 1811 KC Wd 18 Pct. 11
VTD 1812 KC Wd 18 Pct. 12-13
VTD 1816 KC Wd 18 Pct. 16
VTD 1817 KC Wd 18 Pct. 17
VTD 1901 KC Wd 19 Pct. 1
VTD 1902 KC Wd 19 Pct. 2
VTD 1903 KC Wd 19 Pct. 3
VTD 1904 KC Wd 19 Pct. 4
VTD 1905 KC Wd 19 Pct. 5
VTD 1906 KC Wd 19 Pct. 6
VTD 1907 KC Wd 19 Pct. 7
VTD 1908 KC Wd 19 Pct. 8 & 13

VTD 1909 KC Wd 19 Pct. 9
VTD 1910 KC Wd 19 Pct. 10, 21
VTD 1911 KC Wd 19 Pct. 11, 12
VTD 1914 KC Wd 19 P 14-16, 20
VTD 1917 KC Wd 19 Pct. 17, 19
VTD 1918 KC Wd 19 Pct. 18
VTD 2001 KC Wd 20 Pct. 1
VTD 2002 KC Wd 20 Pct. 2 & 6
VTD 2003 KC Wd 20 Pct. 3
VTD 2004 KC Wd 20 Pct. 4
VTD 2005 KC Wd 20 Pct. 5
VTD 2007 KC Wd 20 Pct. 7
VTD 2008 KC Wd 20 Pct. 8
VTD 2009 KC Wd 20 Pct. 9
VTD 2010 KC Wd 20 Pct. 10
VTD 2201 KC Wd 22 Pct. 1
VTD 2202 KC Wd 22 Pct. 2
VTD 2203 KC W22 P3, W20 P11
VTD 2204 KC Wd 22 Pct. 4
VTD 2205 KC Wd 22 Pct. 5
VTD 2206 KC Wd 22 Pct. 6
VTD 2207 KC Wd 22 Pct. 7
VTD 2208 KC Wd 22 Pct. 8
VTD 2209 KC Wd 22 Pct. 9
VTD 2210 KC Wd 22 Pct. 10
VTD 2211 KC Wd 22 Pct. 11
VTD 2212 KC Wd 22 Pct. 12
VTD 2213 KC Wd 22 Pct. 13, 14
VTD 2215 KC Wd 22 Pct. 15
VTD 2216 KC Wd 22 Pct. 16
VTD 2301 KC Wd 23 Pct. 1
VTD 2302 KC Wd 23 Pct. 2
VTD 2303 KC Wd 23 Pct. 3
VTD 2304 KC Wd 23 Pct. 4
VTD 2305 KC Wd 23 Pct. 5
VTD 2306 KC Wd 23 Pct. 6
VTD 2307 KC Wd 23 Pct. 7 & 10
VTD 2308 KC Wd 23 Pct. 8
VTD 2309 KC Wd 23 Pct. 9
VTD 2311 KC Wd 23 Pct. 11
VTD 2312 KC Wd 23 Pct. 12
VTD 2313 KC Wd 23 Pct. 13
VTD 2314 KC Wd 23 Pct. 14
VTD 2315 KC Wd 23 Pct. 15
VTD 2316 KC Wd 23 Pct. 16
VTD 2317 KC Wd 23 Pct. 17
VTD 2401 KC Wd 24 Pct. 1
VTD 2402 KC Wd 24 Pct. 2
VTD 2403 KC Wd 24 Pct. 3 & 5
VTD 2404 KC Wd 24 Pct. 4

VTD 2406 KC Wd 24 Pct. 6
VTD 2407 KC Wd 24 Pct. 7 & 27
VTD 2408 KC Wd 24 Pct. 8
VTD 2409 KC Wd 24 Pct. 9 & 23
VTD 2410 KC Wd 24 Pct. 10, 18
VTD 2411 KC Wd 24 Pct. 11
VTD 2412 KC Wd 24 Pct. 12, 14
VTD 2413 KC Wd 24 Pct. 13
VTD 2415 KC Wd 24 Pct. 15, 16
VTD 2417 KC Wd 24 Pct. 17, 22
VTD 2419 KC Wd 24 Pct. 19, 21
VTD 2420 KC Wd 24 Pct. 20
VTD 2424 KC Wd 24 Pct. 24
VTD 2425 KC Wd 24 Pct. 25
VTD 2426 KC Wd 24 Pct. 26
VTD 2428 KC Wd 24 Pct. 28
VTD 2429 KC Wd 24 Pct. 29
VTD 2430 KC Wd 24 Pct. 30
VTD 2501 KC Wd 25 Pct. 1
VTD 2502 KC Wd 25 Pct. 2
VTD 2503 KC Wd 25 Pct. 3
VTD 2504 KC Wd 25 Pct. 4
VTD 2505 KC Wd 25 Pct. 5
VTD 2506 KC Wd 25 Pct. 6
VTD 2507 KC Wd 25 Pct. 7
VTD 2508 KC Wd 25 Pct. 8
VTD 2509 KC Wd 25 Pct. 9
VTD 2510 KC Wd 25 Pct. 10
VTD 2511 KC Wd 25 Pct. 11, 12
VTD 2513 KC Wd 25 Pct. 13
VTD 2514 KC Wd 25 Pct. 14
VTD 2515 KC Wd 25 Pct. 15
VTD 2601 KC Wd 26 Pct. 1
VTD 2602 KC Wd 26 Pct. 2
VTD 2603 KC Wd 26 Pct. 3
VTD 2604 KC Wd 26 Pct. 4
VTD 2605 KC Wd 26 Pct. 5
VTD 2606 KC Wd 26 Pct. 6
VTD 2607 KC Wd 26 Pct. 7
VTD 2608 KC Wd 26 Pct. 8
VTD 2609 KC Wd 26 Pct. 9
VTD 2610 KC Wd 26 Pct. 10, 11
VTD 2612 KC Wd 26 Pct. 12
VTD 2613 KC Wd 26 Pct. 13
VTD 2701 KC Wd 27 Pct. 1
VTD 2702 KC Wd 27 Pct. 2
VTD 2703 KC Wd 27 Pct. 3
VTD 2704 KC Wd 27 Pct. 4
VTD 2705 KC Wd 27 Pct. 5
VTD 2706 KC W 27 P 6,11,13,17

VTD 2707 KC Wd 27 Pct. 7
VTD 2708 KC Wd 27 Pct. 8
VTD 2709 KC Wd 27 Pct. 9
VTD 2710 KC Wd 27 Pct. 10
VTD 2712 KC Wd 27 Pct. 12, 14
VTD 2715 KC Wd 27 Pct. 15
VTD 2716 KC Wd 27 Pct. 16
VTD 2801 KC Wd 28 Pct. 1
VTD 2802 KC Wd 28 Pct. 2
VTD 2803 KC Wd 28 Pct. 3
VTD 2804 KC Wd 28 Pct. 4
VTD 2805 KC Wd 28 Pct. 5
VTD 2806 KC Wd 28 Pct. 6
VTD 2807 KC Wd 28 Pct. 7
VTD 2808 KC Wd 28 Pct. 8
VTD 2809 KC Wd 28 Pct. 9
VTD 2810 KC Wd 28 Pct. 10
VTD 2811 KC Wd 28 Pct. 11
VTD 2812 KC Wd 28 Pct. 12
VTD 2901 KC Wd 29 Pct. 1
VTD 2902 KC Wd 29 Pct. 2
VTD 2903 KC Wd 29 Pct. 3
VTD 2904 KC Wd 29 Pct. 4
VTD 2905 KC Wd 29 Pct. 5
VTD 2906 KC Wd 29 Pct. 6
VTD 2907 KC Wd 29 Pct. 7
VTD 2908 KC Wd 29 Pct. 8
VTD 3001 KC Wd 30 Pct. 1
VTD 3002 KC Wd 30 Pct. 2
VTD 3003 KC Wd 30 Pct. 3
VTD 3004 KC Wd 30 Pct. 4
VTD 3005 KC Wd 30 Pct. 5
VTD 3006 KC Wd 30 Pct. 6
VTD 3007 KC Wd 30 Pct. 7
VTD 3008 KC Wd 30 Pct. 8 & 13
VTD 3009 KC Wd 30 Pct. 9 & 12
VTD 3010 KC Wd 30 Pct. 10, 11
VTD B010 Blue 01
VTD B020 Blue 02
VTD B030 Blue 03
VTD B040 Blue 04
VTD B050 Blue 05
VTD B060 Blue 06
VTD B070 Blue 07
VTD B080 Blue 08
VTD B090 Blue 09
VTD B100 Blue 10
VTD B110 Blue 11
VTD B120 Blue 12
VTD B130 Blue 13

VTD B140 Blue 14 & 14A
VTD B150 Blue 15
VTD B160 Blue 16 & 16B
VTD B16A Blue 16A
VTD B170 Blue 17
VTD B180 Blue 18
VTD B190 Blue 19
VTD B200 Blue 20
VTD B210 Blue 21
VTD B220 Blue 22
VTD B22A Blue 22A
VTD B230 Blue 23
VTD B240 Blue 24 & 24A
VTD B250 Blue 25
VTD B25A Blue 25A
VTD B25B Blue 25B & 25C
VTD B260 Blue 26
VTD B26A Blue 26A & 81
VTD B270 Blue 27
VTD B280 Blue 28
VTD B28A Blue 28A
VTD B290 Blue 29 & 29A
VTD B29B Blue 29B
VTD B300 Blue 30
VTD B310 Blue 31
VTD B320 Blue 32
VTD B330 Blue 33
VTD B33A Blue 33A
VTD B33B Blue 33B
VTD B340 Blue 34
VTD B34A Blue 34A
VTD B34B Blue 34B, 34C & 89
VTD B350 Blue 35
VTD B360 Blue 36 & 36A
VTD B36B Blue 36B, 75 & 75A
VTD B370 Blue 37
VTD B37A Blue 37A
VTD B37B Blue 37B
VTD B37C Blue 37C
VTD B380 Blue 38
VTD B390 Blue 39
VTD B400 Blue 40
VTD B410 Blue 41
VTD B420 Blue 42
VTD B430 Blue 43
VTD B440 Blue 44
VTD B450 Blue 45
VTD B460 Blue 46
VTD B470 Blue 47
VTD B47A Blue 47A

VTD B480 Blue 48
VTD B490 Blue 49
VTD B500 Blue 50
VTD B510 Blue 51
VTD B520 Blue 52
VTD B530 Blue 53
VTD B540 Blue 54
VTD B550 Blue 55
VTD B560 Blue 56
VTD B570 Blue 57
VTD B580 Blue 58
VTD B590 Blue 59
VTD B600 Blue 60
VTD B610 Blue 61
VTD B620 Blue 62
VTD B630 Blue 63
VTD B640 Blue 64
VTD B650 Blue 65
VTD B660 Blue 66
VTD B670 Blue 67
VTD B680 Blue 68
VTD B690 Blue 69
VTD B700 Blue 70
VTD B70A Blue 70A, 74 & 74B
VTD B710 Blue 71
VTD B720 Blue 72
VTD B730 Blue 73 & 73A
VTD B74A Blue 74A & 74C
VTD B760 Blue 76
VTD B770 Blue 77
VTD B780 Blue 78
VTD B790 Blue 79
VTD B800 Blue 80
VTD B820 Blue 82
VTD B830 Blue 83
VTD B840 Blue 84
VTD B850 Blue 85
VTD B860 Blue 86
VTD B870 Blue 87
VTD B880 Blue 88
VTD B900 Blue 90
VTD B910 Blue 91
VTD B920 Blue 92
VTD B930 Blue 93
VTD BR01 Brooking 01
VTD BR02 Brooking 02
VTD BR03 Brooking 03
VTD BR04 Brooking 04
VTD BR05 Brooking 05 & 30
VTD BR06 Brooking 06

VTD BR07 Brooking 07
VTD BR08 Brooking 08
VTD BR09 Brooking 09
VTD BR10 Brooking 10 & 11
VTD BR12 Brooking 12
VTD BR13 Brooking 13
VTD BR14 Brooking 14
VTD BR15 Brooking 15
VTD BR16 Brooking 16 & 17
VTD BR18 Brooking 18 & 19
VTD BR20 Brooking 20
VTD BR21 Brooking 21
VTD BR22 Brooking 22
VTD BR23 Brooking 23
VTD BR24 Brooking 24
VTD BR25 Brooking 25
VTD BR26 Brooking 26 & 28
VTD BR27 Brooking 27
VTD BR29 Brooking 29
VTD F010 Fort Osage 01
VTD P010 Prairie 01, 02 & 39
VTD P030 Prairie 03
VTD P040 Prairie 04
VTD P050 Prairie 05
VTD P060 Prairie 06
VTD P070 Prairie 07
VTD P080 Prairie 08
VTD P090 Prairie 09
VTD P100 Prairie 10
VTD P110 Prairie 11,13,15,16
VTD P120 Prairie 12
VTD P140 Prairie 14
VTD P170 Prairie 17
VTD P180 Prairie 18
VTD P190 Prairie 19
VTD P200 Prairie 20
VTD P210 Prairie 21
VTD P220 Prairie 22
VTD P230 Prairie 23
VTD P240 Prairie 24
VTD P250 Prairie 25
VTD P260 Prairie 26
VTD P270 Prairie 27
VTD P27A Prairie 27A
VTD P280 Prair 28,28-A,B,C,D
VTD P290 Prairie 29
VTD P300 Prairie 30
VTD P310 Prairie 31
VTD P320 Prairie 32
VTD P330 Prairie 33

VTD P340 Prairie 34
VTD P350 Prairie 35
VTD P360 Prairie 36
VTD P370 Prairie 37
VTD P380 Prairie 38
VTD S010 Sni-A-Bar 01 & 02 (part)
Tract/Block 014801903
Tract/Block 014801904
VTD S040 Sni-A-Bar 04
VTD W010 Washington 01
VTD W020 Washington 02 & 03
VTD W040 Washington 04
VTD W050 Washington 05
VTD W060 Washington 06
VTD W070 Washington 07
VTD W080 Washington 08
VTD W090 Washington 09
VTD W100 Washington 10
VTD W110 Washington 11
VTD W120 Washington 12
VTD W130 Washington 13
VTD W140 Washington 14
VTD W150 Washington 15
VTD W160 Washington 16
VTD W170 Washington 17**]**

[128.360. SIXTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The sixth district shall be composed of the following:
ANDREW County
ATCHISON County
BUCHANAN County
CALDWELL County
CARROLL County
CHARITON County
CLAY County
CLINTON County
COOPER County
DAVIESS County
DE KALB County
GENTRY County
GRUNDY County
HARRISON County
HOLT County
HOWARD County
JACKSON County (part)
VTD F020 Fort Osage 02
VTD F030 Fort Osage 03
VTD F040 Fort O 04,4A,4B,4C
VTD F050 Fort Osage 05 & 07
VTD F060 Fort Osage 06 & 08

VTD F100 Fort Os 10, 15, 17
VTD F110 Fort Osage 11 & 12
VTD F130 Fort Osage 13 & 14
VTD F160 Fort Osage 16
VTD F180 Fort Osage 18
VTD F190 Fort Osage 19
VTD S010 Sni-A-Bar 01 & 02 (part)
Tract/Block 0147 913
Tract/Block 014801901B
Tract/Block 014801902
Tract/Block 014801905
Tract/Block 014801906
Tract/Block 014801907
Tract/Block 014801908
Tract/Block 014801909
Tract/Block 014801918
Tract/Block 014801921
Tract/Block 014801922
Tract/Block 014801983
Tract/Block 014801984
Tract/Block 0149 304B
Tract/Block 0149 306A
Tract/Block 0149 307
Tract/Block 0149 308
Tract/Block 0149 676A
Tract/Block 0149 677A
Tract/Block 0149 678B
VTD S030 Sni-A-Bar 03 & 05C
VTD S03A Sni-A-Bar 03A
VTD S03B Sni-A-Bar 03B
VTD S03C Sni-A-Bar 03C
VTD S03D Sni-A-Bar 03D
VTD S050 Sni-A-Bar 05,05A,05B
VTD S05D Sni-A-Bar 05D & 27 (part)
Tract/Block 0149 521A
Tract/Block 0149 521C
VTD S060 Sni-A-Bar 06,06A,06B (part)
Tract/Block 0149 637A
Tract/Block 0149 637B
Tract/Block 0149 655A
Tract/Block 0149 657
Tract/Block 0149 658
VTD S070 Sni-A-Bar 07 (part)
Tract/Block 0149 649A
Tract/Block 0149 661
Tract/Block 0149 662A
Tract/Block 0149 662B
Tract/Block 0149 663
Tract/Block 0149 664
Tract/Block 0149 665

Tract/Block 0149 666
Tract/Block 0149 696A
VTD S130 Sni-A-Bar 13
VTD S140 Sni-A-Bar 14
VTD S15A Sni-A-Bar 15A
VTD S160 Sni-A-Bar 16
VTD S16A Sni-A-Bar 16A
VTD S170 Sni-A-Bar 17
VTD S17A Sni-A-Bar 17A
VTD S17B Sni-A-Bar 17B
VTD S180 Sni-A-Bar 18
VTD S18A Sni-A-Bar 18A
VTD S18B Sni-A-Bar 18B
VTD S18C Sni-A-Bar 18C
VTD S190 Sni-A-Bar 19,19A,19B
VTD S230 Sni-A-Bar 23 & 23A
VTD S250 Sni-A-Bar 25
VTD S260 Sni-A-Bar 26,26A,26B
VTD S280 Sni-A-Bar 28
VTD S28A Sni-A-Bar 28A
VTD S28B Sni-A-Bar 28B
VTD S28C Sni-A-Bar 28C
VTD S28D Sni-A-Bar 28D
VTD S28E Sni-A-Bar 28E
VTD S28F Sni-A-Bar 28F
VTD S28G Sni-A-Bar 28G
VTD S290 Sni-A-Bar 29
VTD S29A Sni-A-Bar 29A
VTD S29B Sni-A-Bar 29B
VTD S29C Sni-A-Bar 29C
VTD S300 Sni-A-Bar 30 (part)
Tract/Block 014105202
Tract/Block 014105203
Tract/Block 014105204
Tract/Block 014105205
Tract/Block 014105206
Tract/Block 014105207
Tract/Block 014105208
Tract/Block 014105209
Tract/Block 014105210
Tract/Block 014105211
Tract/Block 014105212
Tract/Block 014105213
Tract/Block 014105214
Tract/Block 014105222
Tract/Block 014105223
Tract/Block 014105224
Tract/Block 014105225
VTD S30B Sni-A-Bar 30B & 31A
VTD S310 Sni-A-Bar 31

VTD S31B Sni-A-Bar 31B
VTD S320 Sni-A-Bar 32
VTD S330 Sni-A-Bar 33
VTD S340 Sni-A-Bar 34
VTD S34A Sni-A-Bar 34A
LINN County
LIVINGSTON County
MERCER County
NODAWAY County
PLATTE County
PUTNAM County
RAY County
SCHUYLER County
SULLIVAN County
WORTH County**]**

[128.362. SEVENTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The seventh district shall be composed of the following:
BARRY County
BARTON County
CEDAR County
CHRISTIAN County
DADE County
DOUGLAS County
GREENE County
JASPER County
LAWRENCE County
MCDONALD County
NEWTON County
OZARK County
POLK County
STONE County
TANEY County**]**

[128.364. EIGHTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The eighth district shall be composed of the following:
BOLLINGER County
BUTLER County
CAPE GIRARDEAU County
CARTER County
CRAWFORD County
DENT County
DUNKLIN County
HOWELL County
IRON County
MADISON County
MISSISSIPPI County
NEW MADRID County
OREGON County
PEMISCOT County

PERRY County
PHELPS County
REYNOLDS County
RIPLEY County
ST. FRANCOIS County
SCOTT County
SHANNON County
STODDARD County
TEXAS County
WASHINGTON County
WAYNE County
WRIGHT County**]**

[128.366. NINTH CONGRESSIONAL DISTRICT (1990 CENSUS). — The ninth district shall be composed of the following:
ADAIR County
AUDRAIN County
BOONE County
CALLAWAY County
CLARK County
FRANKLIN County
GASCONADE County
KNOX County
LEWIS County
LINCOLN County
MACON County
MARION County
MONROE County
MONTGOMERY County
PIKE County
RALLS County
RANDOLPH County
ST. CHARLES County (part)
VTD 0082 Becky David (part)
Tract/Block 311198501A
Tract/Block 311198501C
Tract/Block 311198502A
Tract/Block 311198502B
Tract/Block 311198502C
Tract/Block 311198503
Tract/Block 311198504
Tract/Block 311198505
VTD 0083 Woodcliff (part)
Tract/Block 311198508
Tract/Block 311198509
Tract/Block 311198510
Tract/Block 311198515
Tract/Block 311198516
Tract/Block 311198517
Tract/Block 311198518
Tract/Block 311198519

VTD 0084 Harvester-Sycamore85
VTD 0140 Laura Hills
VTD 0141 Fort Zumwalt
VTD 0142 Central
VTD 0143 All Saints
VTD 0144 Fox
VTD 0145 Salt Lick
VTD 0147 Cottleville
VTD 0148 Winds
VTD 0149 Sunny Hill
VTD 0150 Timber
VTD 0151 Glengate
VTD 0160 O'Fallon 160
VTD 0161 O'Fallon 161
VTD 0162 O'Fallon 162
VTD 0163 O'Fallon 163
VTD 0164 O'Fallon 164
VTD 0165 St. Paul
VTD 0166 Mount Hope
VTD 0167 O'Fallon 167
VTD 0168 O'Fallon 168
VTD 0180 Wentzville 180
VTD 0181 Wentzville 181
VTD 0182 Wentzville 182
VTD 0183 Foristell
VTD 0184 Flint Hill
VTD 0185 Josephville
VTD 0186 Twin Oaks
VTD 0200 Lake St. Louis 200
VTD 0201 Lake St. Louis 201
VTD 0202 Lake St. Louis 202
VTD 0203 Fieldcrest
VTD 0204 Dardenne
VTD 0205 Bates
VTD 2200 Pitman
VTD 2210 Weldon Springs
VTD 2220 New Melle
VTD 2230 Defiance
VTD 2240 Femme Osage
VTD 2250 Augusta
VTD 2260 Hopewell
VTD 2270 Whitmoor
SCOTLAND County
SHELBY County
WARREN County**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to the 1999 to 2001 tax years only.

[135.095. MAXIMUM AMOUNT, QUALIFICATIONS, PHASE-OUT OF CREDIT BASED ON INCOME, EXPIRATION DATE. — For all tax years beginning on or after January 1, 1999, but before December 31, 2001, a resident individual who has attained sixty-five years of age on or

before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such individual's income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds an individual's tax liability.**]**

EXPLANATION: This section is ineffective by its own provisions; the waiver applied to 1993 property taxes only.

[137.423. PROPERTY LIST, FILING ON TIME FOR CERTAIN COUNTIES MAY BE WAIVED BY COUNTY EXECUTIVE FOR TAX YEARS 1992 AND 1993. — The county executive of any county of the first classification with a charter form of government which contains all or part of a city with a population of three hundred fifty thousand or more inhabitants may waive all penalties for failure to timely file a personal property list to the county assessor pursuant to section 137.345, for the 1992 and 1993 tax years.**]**

EXPLANATION: This section is ineffective by its own provisions; it required submission of a report in 1984.

[138.236. COMMISSIONERS TO REPORT TO GOVERNOR ON STATEWIDE REASSESSMENT, WHEN — COMPENSATION FOR EXTRA DUTIES. — 1. Each state tax commissioner serving on August 13, 1984, shall prepare and submit to the governor a report on the progress and status of the statewide reassessment program. Such report shall be submitted annually by each commissioner until the expiration of the term that he is serving on August 13, 1984.

2. For the performance of the duties imposed under the provisions of subsection 1 of this section, each commissioner shall receive a sum that, when added to the other compensation paid to that commissioner prior to August 13, 1984, will equal the sum provided by adding together the compensation specified by sections 138.230, 138.235, 138.440, and 138.445. This sum shall be paid in the same manner as other compensation is paid.**]**

EXPLANATION: This section is ineffective by its own provisions; it provided an extension of property tax filings in 1993 for flooding.

[140.015. EXTENSION OF TIME TO PAY TAXES ON PROPERTY DAMAGED IN DISASTER AREA OF 1993 — FRAUDULENT LISTINGS, PENALTY — TAXES DELINQUENT WHEN, PENALTIES. — 1. Notwithstanding the provisions of chapters 137, 139, 140 and 141, RSMo, to the contrary, in any county or city not within a county, every person owning or holding real property or taxable tangible personal property, excluding motor vehicles, that is partially or totally destroyed during the month of July, August, or September, 1993, by a natural disaster in a county or city not within a county which has been declared a disaster area by declaration of the President of the United States during the month of July, August, or September, 1993, shall, upon application to the county collector or collector of any city not within a county, receive an extension of time for payment of 1993 property taxes assessed pursuant to chapter 137, RSMo, on such partially or totally destroyed property.

2. Any person requesting such an extension as provided in this section shall provide a list of such destroyed property to the county collector or collector of any city not within a county. The collector shall have available at his office a supply of appropriate forms on which the list shall be made. The oath to be signed and affirmed or sworn to by each person making a list of such destroyed property shall be as follows:

I, ..., do solemnly swear, or affirm, that the foregoing list contains a true and correct statement of the real or taxable tangible personal property, excluding motor vehicles, which I owned or which I had under my charge or management during the month of July, August, or September, 1993, and which was partially or totally destroyed during those months by a natural disaster. Any person who completes such a list and with intent to defraud includes property on the list that was not partially or totally destroyed by a natural disaster during the month of July, August, or September, 1993, shall, in addition to any other penalties provided by law, be assessed double the true value of any property fraudulently listed. The list and oath shall be filed by the collector, after he has completed his collector's books and provided a copy of such list to the county assessor or assessor of any city not within a county, in the office of the county clerk or clerk of any city not within a county, who, after entering the filing thereon, shall preserve and safely keep the list and oath. The assessor, upon receiving a copy of such list, may verify such list by contacting each person submitting such list and by observing personally the destroyed property to ensure that person made a correct statement of all such destroyed property.

3. If a person owning or holding property obtains such an extension as provided in this section, such property shall be considered delinquent if the taxes on such property remain unpaid on the first day of January, 1994; in such case the taxes due on such property shall be subject to interest at the rate of six percent per annum until paid, but the property shall not be subject to any tax lien, tax sale, or other penalties for delinquent taxes as provided by law, other than provided in this section, unless the taxes on such property remain unpaid on the first day of July, 1994; in such case the property shall be subject to any interest, tax lien, tax sale, or other penalties for delinquent taxes as provided by law for each month or fraction thereof the taxes on such property remain unpaid after the first day of July, 1994.

4. All interest paid pursuant to subsection 3 of this section shall be due to the taxing authority upon whose tax levy such interest is paid.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to FY2003 only.

[143.122. ESTIMATE OF ADDITIONAL INCOME TAX REVENUES FOR FISCAL YEAR 2003 — TRANSFER OF $27,000,000 INTO SCHOOLS OF THE FUTURE FUND FROM GENERAL REVENUE. — In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to section 143.121 and shall transfer an amount equal to twenty-seven million dollars of general revenue to the schools of the future fund created in section 163.005, RSMo.**]**

EXPLANATION: This section applies to 2001 tax year only.

[143.172. ALLOWS A DEDUCTION FOR THE 2001 FEDERAL TEN PERCENT RATE BRACKET INCOME TAX REBATE INCREASING MISSOURI TAXABLE INCOME. — In addition to any deduction for federal income taxes allowed pursuant to section 143.171 for the taxpayer's first tax year beginning on or after January 1, 2001, and on or before December 31, 2001, an individual taxpayer shall be allowed a deduction for any federal credit allowed pursuant to Section 6428 of the Internal Revenue Code for the accelerated ten percent income tax rate bracket for tax year 2001, including any advance refund of the credit allowed to the taxpayer pursuant to Section 6428(e) of the Internal Revenue Code, only to the extent such federal credit or advance refund of the credit would otherwise increase the Missouri taxable income of the taxpayer. The sum of the deduction allowed to the taxpayer pursuant to subsection 2 of section 143.171 and the

deduction allowed pursuant to this section shall not exceed the applicable dollar limit imposed pursuant to subsection 2 of section 143.171.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to 1993, 1994 and 1995 tax years only.

[143.1010. REFUNDS, AMOUNT DESIGNATED TO U.S. OLYMPIC FESTIVAL TRUST FUND — COST OF COLLECTION. — 1. For each income tax year beginning in 1993, 1994, or 1995, each individual or corporation who is entitled to a tax refund in an amount sufficient to make a designation under sections 143.1010 to 143.1012 may designate that one dollar or any amount in excess of one dollar on a corporate or single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the "United States Olympic Festival Trust Fund", hereinafter referred to as the "trust fund". All moneys credited to the trust fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution. The contribution designation authorized by sections 143.1010 to 143.1012 shall be clearly and unambiguously printed on the first page of each corporate and individual income tax return form provided by this state.

2. The director of revenue shall determine at least monthly the amount of all contributions designated under sections 143.1010 to 143.1012 less an amount sufficient to cover the cost of collection and handling by the department of revenue, and shall then transfer such amount to the trust fund.

3. A contribution designated under sections 143.1010 to 143.1012 shall only be transferred and deposited to the trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.**]**

EXPLANATION: This section is ineffective by its own provisions; it provided funding for the 1994 U.S. Olympic Festival.

[143.1011. DISTRIBUTION OF FUND — PURPOSE AND USE OF FUND — MONEY REMAINING IN FUND AFTER FESTIVAL, DISTRIBUTION OF. — All moneys transferred to the trust fund shall be distributed by the director of revenue at times he deems appropriate to the Metropolitan St. Louis Festival Organizing Committee, Inc., which is a Missouri corporation granted a certificate of incorporation on December 15, 1989, or its successor organization which is a tax exempt organization under section 501(c)(3) of the 1986 Internal Revenue Code, as amended. Such funds shall only be used for the planning, development, maintenance, improvement and construction of facilities to be used during the 1994 United States Olympic Festival to be held in St. Louis City, St. Louis County, St. Charles County and Jefferson County, and for the promotion and operation of such festival. If any moneys remain or are subsequently deposited in such trust fund after such festival is conducted, then such moneys shall be distributed by the director of revenue to the Metropolitan St. Louis Festival Organizing Committee, Inc., or its successor organization.]

EXPLANATION: This section is ineffective by its own provisions; it applied to funding for the 1994 U.S. Olympic Festival.

[143.1012. LAPSE OF FUND INTO GENERAL REVENUE PROHIBITED. — The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund at the end of each biennium shall not apply to the trust fund.**]**

EXPLANATION: This section expired 12-31-03.

[144.036. EXEMPTION, ELECTRICAL AND GAS ENERGY CONSUMED IN STEELMAKING — PHASE-OUT — EXPIRATION DATE. — 1. Beginning January 1, 1994, and ending December 31,

1994, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, one hundred percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

2. Beginning January 1, 1995, and ending December 31, 1995, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, ninety percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

3. Beginning January 1, 1996, and ending December 31, 1996, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, eighty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

4. Beginning January 1, 1997, and ending December 31, 1997, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, seventy percent of the cost of electrical energy or gas, whether natural, artificial, or

propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

5. Beginning January 1, 1998, and ending December 31, 1998, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, sixty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

6. Beginning January 1, 1999, and ending December 31, 1999, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, fifty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

7. Beginning January 1, 2000, and ending December 31, 2000, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, forty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

8. Beginning January 1, 2001, and ending December 31, 2001, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570,

94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, thirty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

9. Beginning January 1, 2002, and ending December 31, 2002, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, twenty percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

10. Beginning January 1, 2003, and ending December 31, 2003, in addition to the exemptions granted under the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable under sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, and 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.750, 94.600 to 94.655, and 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, ten percent of the cost of electrical energy or gas, whether natural, artificial, or propane, which is ultimately consumed in connection with basic steelmaking in Missouri and the processing and fabricating thereof by the same steelmaker at such maker's integrated plant.

11. This section shall expire December 31, 2003.**]**

EXPLANATION: This section is ineffective by its own provisions; it provided sales and use tax exemptions for the 1994 World Cup Soccer Tournament.

[144.041. EXEMPTION FOR ADMISSION TO 1994 WORLD CUP SOCCER TOURNAMENT GAMES. — In addition to the exemptions granted under the provisions of section 144.030, there is hereby exempted from any sales and use taxes levied by the state and any sales taxes levied by any political subdivision of this state as otherwise authorized by law any charges for admissions, as defined in section 144.010, to any of the games of the 1994 World Cup Soccer Tournament which are held in any county of the first classification having a charter form of government which contains all or any part of a city with a population of at least three hundred fifty thousand inhabitants.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to game birds sold prior to January 1, 1995.

[144.048. NONDOMESTIC GAME BIRDS SOLD FOR SPORT HUNTING NOT TO BE TAXED PRIOR TO JANUARY 1, 1995 — NONDOMESTIC GAME BIRDS, DEFINED. — Notwithstanding provisions of the law to the contrary, the director of revenue shall not assess state and local sales or use taxes, penalties or interest on any sales of nondomestic game birds sold for the purpose of sport hunting prior to January 1, 1995. For the purpose of this section, "nondomestic game birds"

shall include, but not limited to, pheasant, quail, dove, pigeon, prairie chicken, wild turkey and grouse.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to the United States Olympic Festival held in 1994.

[144.514. ADMISSIONS TO U.S. OLYMPIC FESTIVAL EXEMPT FROM SALE AND USE TAXES. — In addition to the exemptions granted under the provisions of section 144.030, there is hereby exempted from any sales and use taxes levied by the state and any sales taxes levied by any political subdivision of this state as otherwise authorized by law any charges for admissions as defined in section 144.010, to any of the events of the United States Olympic Festival to be held in 1994 in the state of Missouri.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to Section 144.748 which was repealed in 1996.

[144.749. EFFECT OF UNCONSTITUTIONALITY OF SECTION 144.748. — In the event section 144.748 is ultimately found to be unconstitutional, the director of revenue may withhold from future distributions due political subdivisions an amount equal to such political subdivision's share, including interest, of the distribution from the local use tax fund since its inception. The phrase "future distributions" as used in this section means any and all present or future taxes collected and administered by the director on behalf of the political subdivision. —

EXPLANATION: This section expired 01-01-01.

[160.300. DEFINITIONS. — As used in sections 160.300 to 160.328, the following terms shall mean:

(1) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications from school districts seeking loans under the provisions of sections 160.300 to 160.328;

(2) "Authority", the environmental improvement and energy resources authority;

(3) "Building", any district owned and operated structure that is occupied and which includes a heating or cooling system, or both;

(4) "Department", the department of natural resources;

(5) "Energy conservation loan account", an account to be established on the books of a school district for purposes of tracking information related to the receipt or expenditure of loan funds, and to be used to receive and remit energy cost savings for purposes of making semiannual payments to retire the loan;

(6) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption or to allow for the use of alternative energy resources;

(7) "Energy cost savings" or "savings", the value, in terms of dollars, that has or shall accrue from energy savings due to implementation of an energy conservation project;

(8) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(9) "Facility", any major energy using system owned and operated by a district, whether or not housed in a building;

(10) "Fund", the energy set-aside program fund established in section 160.310;

(11) "Loan agreement", a document signed and agreed to by the school board and the department that details all terms and requirements under which the loan was issued, and describes the terms under which the loan repayment shall be made;

(12) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients within the balance of loan funds available;

(13) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(14) "Repayment period", unless otherwise negotiated as required under section 160.310, the period in years required to repay a loan as determined by the projects' estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(15) "School board", the board of education having general control of the property and affairs of any seven-director, urban or metropolitan school district as defined in section 160.011;

(16) "School district" or "district", may include seven-director districts, urban school districts, and metropolitan school districts as defined in section 160.011;

(17) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(18) "Unobligated balance", that amount in the fund that has not been dedicated to any district at the end of each state fiscal year.**]**

EXPLANATION: This section expired 01-01-01.

[160.302. APPLICATION, FORM AND CONTENTS — REVIEW AND SELECTION OF APPLICATIONS — CERTIFICATION BY DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION REQUIRED. — 1. At the direction of the school board, school districts may submit an application for loan funds to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a district owned and operated building or facility. The application shall be accompanied by a technical assistance report. The application and the technical assistance report shall be in such form and contain such information as prescribed by the department.

2. All applications shall be assigned a "payback score" derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score and continuing in ascending numeric order to the highest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than five years. Applications may be approved for loans only in those instances where the school district has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan. In no case shall a loan be made to a district unless two-thirds of the members of the school board vote to approve the loan agreement.

3. The department of elementary and secondary education shall be provided a summary of all proposed school district projects for review within fifteen days from the application deadline. Once projects have been reviewed and selected for loans by the department of natural resources, the department of elementary and secondary education shall have thirty days to certify that those projects selected for loans are consistent with related state programs for educational facilities. No loan shall be provided to a school district until and unless the department of elementary and secondary education has issued such certification in writing to the department of natural resources.**]**

EXPLANATION: This section expired 01-01-01.

[160.304. ANNUAL COMPUTATION OF ENERGY COST SAVINGS REQUIRED. — Annually, at the conclusion of each state fiscal year, each school district which has received a loan pursuant to the provisions of sections 160.300 to 160.328 shall compute the actual energy cost savings resulting from the implementation of the energy conservation project financed by the loan. Energy cost savings shall be calculated in the manner prescribed by the department.**]**

EXPLANATION: This section expired 01-01-01.

[160.306. REPAYMENT OF LOAN TO BE FROM ENERGY COST SAVINGS — INTEREST RATE — RENEGOTIATION OF PAYMENT PERIOD — DEFAULT ON LOAN, CONSEQUENCES — PAYMENTS PLACED IN FUND. — 1. Each school district to which a loan has been made under sections 160.300 to 160.328 shall repay such loan, with interest, in semiannual payments. The rate of interest shall be the rate required by the funding source. The number, amounts and timing of the semiannual payments shall be as determined by the department.

2. Any school district which receives a loan through the provisions of sections 160.300 to 160.328 shall annually budget an amount which is at least sufficient to make the semiannual payments required under this section.

3. The district shall not raise the funds needed to make the semiannual loan payment by the levy of additional taxes and shall not provide for such payment by a charge against any established district fund or account. The semiannual loan payments shall be derived solely from energy cost savings resulting from the implementation of the project. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the district and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

4. If a school district fails to remit a semiannual payment to the department in accordance with subsection 5 of this section within sixty days of the due date of such payment, the department of natural resources shall notify the department of elementary and secondary education to deduct such payment amount from the next regular apportionment of state funds to that district. That amount shall then immediately be deposited in the energy set-aside loan fund.

5. All districts having received loans pursuant to sections 160.300 to 160.328 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the energy set-aside loan fund.**]**

EXPLANATION: This section expired 01-01-01.

[160.308. RECORD-KEEPING DUTIES OF DISTRICT. — 1. A district receiving a loan under the provisions of sections 160.300 to 160.328 shall establish on its books an energy conservation loan account which the district shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The district shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.**]**

EXPLANATION: This section expired 01-01-01.

[160.310. ENERGY SET-ASIDE PROGRAM FUND ESTABLISHED, PURPOSE — SOURCE OF MONEYS — ANTILAPSE PROVISION. — 1. The state treasurer shall establish, maintain, and administer a special trust fund to be administered by the department and to be known as the "Energy Set-aside Program Fund", from which public school districts may seek and obtain loans for the purpose of implementing energy conservation projects under the provisions of sections 160.300 to 160.328.

2. All moneys duly authorized and appropriated by the general assembly, all moneys received from federal funds, gifts, bequests, donations or any other moneys so designated, all moneys received pursuant to section 160.306, and all interest earned on and income generated from moneys in the fund shall immediately be paid to and deposited in the energy set-aside program fund.

3. All principal deposits, as authorized in subsection 1 of this section, and all repayments of loans by school districts, as specified in subsection 5 of section 160.306, to the energy set-aside

program fund shall be available to be issued and reissued for loans as authorized by sections 160.300 to 160.328. After appropriation from the general assembly, the department may expend interest earned on the energy set-aside program fund for the administration of the school loan program in sections 160.300 to 160.328.

4. The commissioner of administration shall disburse such moneys at such times from the fund as are authorized by the department pursuant to section 160.302.

5. Except as otherwise provided in sections 160.300 to 160.328, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the ordinary revenue funds of the state shall not apply to funds in the energy set-aside program fund.**]**

EXPLANATION: This section expired 01-01-01.

[160.312. MISUSE OF FUNDS BY DISTRICT, CONSEQUENCES — DEPARTMENT AUDIT OF EXPENDITURES OR REPAYMENTS. — 1. A loan made pursuant to sections 160.300 to 160.328 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If a school district fails to remit repayment to the department within sixty days of notification, collection shall be made through the provisions outlined in subsection 4 of section 160.306.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 160.300 to 160.328 or the computation of any payment made pursuant to section 160.306.**]**

EXPLANATION: This section expired 01-01-01.

[160.314. DEPARTMENT TO ESTABLISH POLICIES AND PROCEDURES. — Under the provisions of sections 160.300 to 160.328, the department shall establish such procedures, policies and qualifications as may be necessary for the administration of sections 160.300 to 160.328.**]**

EXPLANATION: This section expired 01-01-01

[160.316. TRANSFER FROM THE FUND TO GENERAL REVENUE, WHEN, AMOUNT. — After three years from August 13, 1986, and every year thereafter, the department shall calculate the average unobligated balance of general revenue moneys in the fund. The department shall annually notify the state treasurer as to the amount of the average unobligated balance of general revenue moneys. The state treasurer shall transfer from the fund to the general revenue fund of the state an amount equal to the average unobligated balance of general revenue moneys less ten thousand dollars.**]**

EXPLANATION: This section expired 01-01-01.

[160.318. DEPARTMENT TO CERTIFY USE OF MONEY IN FUND. — All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 160.300 to 160.328 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The department director shall certify that the use of all such moneys and any required agreements or regulations are consistent with the intent of sections 160.300 to 160.328, and all other state and federal laws governing such moneys, agreements and regulations.**]**

EXPLANATION: This section expired 01-01-01

[160.320. REVENUE BONDS MAY BE ISSUED, WHEN, REQUIREMENTS — BONDS NOT AN INDEBTEDNESS OF THE STATE. — 1. In the event general revenue appropriations are not

available to fund sections 160.300 to 160.328, the department and the authority shall have the power to issue and sell revenue bonds in an amount not to exceed the estimated cost of the projects including costs necessarily incidental thereto.

2. No revenue bonds shall be issued and sold unless, at the time of issuance, the department and the authority shall first obtain the approval of the governor and general assembly and:

(1) Pledge the semiannual payments received under the provisions of section 160.306 to the payment of the bonds, both principal and interest;

(2) Provide and maintain an interest and sinking fund in an amount adequate to promptly pay the principal of an interest on the bonds;

(3) Provide a reasonable reserve fund;

(4) Provide a reasonable fund for depreciation.

3. The proceeds of the sale of any bonds issued under sections 160.300 to 160.328 shall be paid into the state treasury to the credit of the energy set-aside program fund established in section 160.310.

4. The revenue bonds may be issued pursuant to a resolution issued by the department and the authority after proper authorization through an appropriation authorizing expenditures out of the proceeds of the sale of the bonds which appropriation shall be chargeable to the energy set-aside program fund.

5. Bonds issued pursuant to sections 160.300 to 160.328 are not an indebtedness of the state of Missouri, or the department and the authority or its employees and are not an indebtedness within the meaning of any constitutional or statutory limitation on the incurring of indebtedness. Such bonds shall bear on the face thereof the following: "This is a revenue bond and not a general obligation bond".**]**

EXPLANATION: This section expired 01-01-01.

[160.322. REVENUE BONDS, MAXIMUM RATE OF INTEREST — SERIAL OR TERM BONDS — INTEREST ON BONDS EXEMPT FROM STATE INCOME TAX. — 1. Bonds issued pursuant to sections 160.300 to 160.328 shall be of such denomination and shall bear such rate of interest, not to exceed fourteen percent per annum, from the date of issuance, as the department and the authority may determine. The bonds may be either serial or term bonds.

2. Serial bonds may be issued with or without the reservation of the right to call them for payment and redemption in advance of their maturity, upon giving such notice, and with or without a covenant requiring the payment of a premium in the event of payment and redemption prior to maturity as the department and the authority may determine.

3. Term bonds shall contain a reservation of the right to call them for payment and redemption prior to maturity at such time and upon the giving of such notice and upon the payment of such premium, if any, as the department and the authority may determine.

4. The bonds, when issued, shall be sold at public sale for the best price obtainable after giving such reasonable notice of the sale as the department and the authority may determine; except that, no bonds shall be sold for less than ninety-five percent of their par value, and accrued interest.

5. The bonds may be sold to the United States of America or to any of its agencies or instrumentalities, at a price not less than par and accrued interest, without public sale and without the giving of the notice prescribed in this section.

6. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes under the laws of this state.**]**

EXPLANATION: This section expired 01-01-01.

[160.324. REVENUE BONDS — DUTIES OF DEPARTMENT — RIGHTS OF HOLDER. — 1. When not inconsistent with the provisions of sections 160.300 to 160.328, the department and the authority are authorized to prescribe the form, details and incidents of the bonds and to make such covenants as in their judgment may be advisable or necessary properly to secure the payment of the bonds.

2. The holder of any bond issued under sections 160.300 to 160.328 or of any coupons representing interest accrued may, by proper civil action either at law or in equity, compel the department and the authority to perform all duties imposed upon them by sections 160.300 to 160.328, including the making and collecting of sufficient rates and charges for the use of the project for which the bonds were issued, and may enforce the performance of any covenant made by the department and the authority in the issuance of the bonds.**]**

EXPLANATION: This section expired 01-01-01.

[160.326. REVENUE BONDS, REFUND, WHEN, HOW. — 1. The revenue bonds issued pursuant to sections 160.300 to 160.328 may be refunded, in whole or in part, under any of the following circumstances:

(1) When any of the bonds have by their terms become due and payable and there are not sufficient funds in the interest and debt service fund to pay the bonds and the interest thereon;

(2) When any of the bonds are by their terms callable for payment and redemption in advance of the date of their maturity and shall have been duly called for payment and redemption;

(3) When any of the bonds are by their terms callable for payment and redemption in advance of the date of maturity and the refunding bonds are sold more than one year prior to the maturity or redemption date of the bonds being refunded. The proceeds derived from the sale of the refunding bonds shall be deposited in escrow with the state treasurer or a bond or trust company located in the state of Missouri which has full trust powers, and such proceeds shall be invested promptly in direct obligations of the United States of America or of its agencies or instrumentalities, or in obligations, the principal of and interest on which are guaranteed by the United States of America, which, together with the interest to be earned on such obligations, will be sufficient for the payment of the principal of such bonds, the redemption premium thereon, if any, and interest accrued to the date of maturity or redemption. Any moneys or obligations which at any time shall be deposited with the state treasurer or with such bank or trust company for the purpose of paying and discharging any of the bonds shall be assigned for the respective holders of the bonds, and such moneys shall be irrevocably appropriated to the payment and discharge thereof;

(4) When any of the bonds are voluntarily surrendered by the holders for exchange for refunding bonds.

2. For the purpose of refunding any bonds issued, including refunding bonds, the department and the authority may make and issue refunding bonds in such amount as may be necessary to pay off and redeem the bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of the bonds, along with the cost of issuing the refunding bonds.

3. The refunding bonds shall be sold in the same manner as provided in sections 160.300 to 160.328 for the sale of revenue bonds.

4. The proceeds of the refunding bonds shall be used to pay off, redeem and cancel such old bonds and interest and the premium, if any due thereon, or the refunding bonds may be issued and delivered in exchange for a like par value amount of the bonds for which the refunding bonds were issued, except that no refunding bonds issued pursuant to sections 160.300 to 160.328 shall be payable in more than twenty years from the date of issue or shall bear interest at a rate in excess of fourteen percent per annum.

5. The refunding bonds may be payable from the same sources as were pledged to the payment of the bonds refunded and, in the discretion of the department and the authority, may be payable from any other source which under sections 160.300 to 160.328 may be pledged to the payment of revenue bonds.**]**

EXPLANATION: This section expired 01-01-01.

[160.328. EXPIRATION OF AUTHORITY TO ISSUE BONDS — EXPIRATION OF OTHER PROVISIONS. — The authorization to issue bonds under sections 160.300 to 160.328 shall terminate on January 1, 1996. All other authorization under sections 160.300 to 160.328 shall expire on January 1, 2001.**]**

EXPLANATION: The authority conferred by this section expired 01-01-00.

[160.510. COMMISSION ON PERFORMANCE ESTABLISHED, MEMBERS, TERMS — DUTIES, REMUNERATION — EXPIRATION DATE. — 1. There is hereby established the "Commission on Performance" to be known herein as the commission. The commission shall be composed of the governor, speaker of the house, president pro tempore of the senate, two additional members of the house of representatives selected by the speaker of the house, no more than one of whom shall be from the same political party, and two additional members of the senate selected by the president pro tempore of the senate, no more than one of whom shall be from the same political party, two members of the state board of education selected by the state board of education, no more than one of whom shall be from the same political party, the commissioner of education or the appointed designees of those persons and two members of district boards of education appointed by the governor, who shall be permanent members of the commission. The permanent members of the commission shall appoint such other members and fix their term of appointment so that the commission is broadly represented by educational professionals, including school administrators, parents, and the business community in the state, excepting that at least twenty-five percent of all members of the commission shall be composed of active classroom teachers in the elementary, middle, or secondary level grades.

2. The duties of the commission shall be confined to providing advice and counsel to the state board of education in the development and implementation of the provisions contained in sections 160.514 to 160.538, section 163.023, RSMo, and section 166.275, RSMo. Further, the commission shall study the equity and adequacy of the school foundation formula as established by section 163.031, RSMo, and adequacy of instruction, and make recommendations to the general assembly to ensure that equity and adequacy tests for providing equal educational access to all public school students as intended by the constitution of the state are being met. The commission shall serve without remuneration. From moneys appropriated therefor, the commission may be reimbursed for expenses incurred in the conduct of commission business. The authority provided to the commission as outlined in this section or otherwise contained in this act shall expire on January 1, 2000.**]**

EXPLANATION: This section is ineffective by its own provisions; it required a 1995 legislative summary to be prepared and distributed to schools.

[161.205. LEGISLATIVE SUMMARY OF CHANGES IN JUVENILE LAW, DISTRIBUTION, ANNOUNCEMENT, WHEN REQUIRED. — The department of elementary and secondary education shall furnish a legislative summary of all changes in juvenile law enacted during the 1995 regular session of the general assembly and distribute it to all schools within the state of Missouri. All schools receiving state aid shall announce the contents of the summary to each student on the first day of class in the 1995-96 school year.**]**

EXPLANATION: This section is ineffective by its own provisions; it required the submission of a report by January 1, 2003.

[161.655. ECONOMICS AND PERSONAL FINANCE EDUCATION STUDY, REPORT TO GENERAL ASSEMBLY, WHEN — CONTENT OF REPORT — COSTS, HOW PAID. — 1. For the purpose of promoting and improving each public school student's knowledge and responsibility relating to economics and personal finance, the department of elementary and secondary education shall conduct a study of economics and personal finance education and submit a report on the study to the Missouri general assembly on or before January 1, 2003.

2. The economics and personal finance report shall include, but not be limited to, the following:

(1) Recommendations on methods, materials, procedures, and in-service training of teachers;

(2) Recommendations relating to funding to facilitate the integration of grade-appropriate principles of economics and personal finance from kindergarten through the twelfth grade into math, reading, writing, social studies, business, and family and consumer science courses;

(3) Recommendations relating to detailed procedures and timetables to assure integration of testing on appropriate areas of economics and personal finance in the Missouri assessment program (MAP) with sufficient test questions to permit a separate reportable test score for each of these two subjects;

(4) Recommendations relating to content for a capstone high school course in economics and personal finance in which a passing grade shall be achieved by each public school student prior to graduation from high school;

(5) Recommendations relating to establishing appropriate undergraduate preparation requirements for teacher certification for teachers from kindergarten through the twelfth grade that will enable new teachers to meet these increased expectations in economics and personal finance education;

(6) Recommendations relating to appropriate changes in state laws, rules, or regulations that are necessary to implement the stated purpose of this study.

3. Any costs relating to the completion of this study shall not be paid by Missouri tax revenue funds, but shall be paid by federal funds, private funds, or other funding sources.**]**

EXPLANATION: This section is ineffective by its own provisions; it required repayment of grants and appropriations by October 13, 1967.

[169.710. APPROPRIATIONS MADE BY GENERAL ASSEMBLY TO BE REPAID IN TWO-YEAR PERIOD. — To meet the requirements of the retirement system for the period between October 13, 1965, and the time when sufficient contributions to the system are transmitted by employers, the board of trustees shall have authority to accept on behalf of the system such grants or appropriations as may be made to them or it by the general assembly of Missouri and to repay and return the same to the state treasury when funds of the system sufficient therefor are available, but any funds appropriated by the general assembly shall be repaid within two years after October 13, 1965.**]**

EXPLANATION: This section is ineffective by its own provisions; the committee terminated June 1, 2003.

[191.938. AUTOMATED EXTERNAL DEFIBRILLATOR ADVISORY COMMITTEE ESTABLISHED, DUTIES, REPORTS, MEMBERSHIP, BYLAWS — TERMINATION DATE. — 1. There is hereby established an "Automated External Defibrillator Advisory Committee" within the department of health and senior services, subject to appropriations.

2. The committee shall advise the department of health and senior services, the office of administration and the general assembly on the advisability of placing automated external

defibrillators in public buildings, especially in public buildings owned by the state of Missouri or housing employees of the state of Missouri, with special consideration to state office buildings accessible to the public.

3. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health and senior services, the office of administration and the governor's office. The issues to be addressed in the report shall include, but need not be limited to:

(1) The advisability of placing automated external defibrillators in public buildings and the determination of the criteria as to which public buildings should have automated external defibrillators and how such automated external defibrillators' placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended automated external defibrillator placement;

(3) Discussion of the need for, and cost of, training personnel in the use of automated external defibrillators and in cardiopulmonary resuscitation;

(4) The integration of automated external defibrillators with existing emergency service.

4. The committee shall be composed of the following members appointed by the director of the department of health and senior services:

(1) A representative of the department of health and senior services;

(2) A representative of the division of facilities management in the office of administration;

(3) A representative of the American Red Cross;

(4) A representative of the American Heart Association;

(5) A physician who has experience in the emergency care of patients.

5. The department of health and senior services member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

6. The department of health and senior services shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

7. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

8. The committee shall adopt written bylaws to govern its activities.

9. The automated external defibrillator advisory committee shall terminate on June 1, 2003.**]**

EXPLANATION: This section expired 8-28-05.

[197.121. CERTAIN FACILITIES NOT TO BE LICENSED AS A HOSPITAL — EXPIRATION DATE. — The department of health and senior services shall not license any entity as a hospital, as the term "hospital" is defined in section 197.020, that is devoted primarily or exclusively to surgical procedures, patients with a cardiac condition, patients with an orthopedic condition, or any other specialized category of patients or cases as may be determined by the director of the department. Nothing in this section shall prohibit licensure or certification of any entity as a hospital that is devoted primarily to care and treatment of children under the age of eighteen years, psychiatric patients, or patients undergoing rehabilitation care or to long-term care hospitals meeting the requirements described in 42 CFR Sec. 412.23(e). The provisions of this section shall expire, and be of no effect, on and after August 28, 2005.**]**

EXPLANATION: This section is ineffective by its own provisions; the required report was due January 1, 2000.

[198.014. EVALUATION OF COMPLIANCE WITH CHAPTER 198, DEPARTMENTS OF HEALTH AND SENIOR SERVICES AND SOCIAL SERVICES — REPORT TO GOVERNOR AND GENERAL ASSEMBLY, WHEN. — The department of health and senior services, with the full cooperation of and in conjunction with the department of social services, shall evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080, RSMo, for residential care facilities II, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of chapter 198. A report of the differences found in the evaluation conducted pursuant to this section shall be made jointly by the departments of health and senior services and social services to the governor and members of the general assembly by January 1, 2000.**]**

EXPLANATION: This section is ineffective; the report was made and the pilot project has been completed.

[198.540. INFORMAL DISPUTE RESOLUTION PILOT PROJECT ESTABLISHED — REPORT TO GENERAL ASSEMBLY. — By January 1, 2000, the division of aging shall establish an informal dispute resolution pilot project in one area of the state to be designated by the division. Such pilot project shall require that, if requested, a division representative provide at least one face-to-face conference in a timely fashion with a facility resident or such resident's family members or guardians when a resident is the subject of a complaint investigation, or cited in a facility inspection or survey completed by the division pursuant to this chapter. The primary purpose of such face-to-face conference shall be to obtain information and facilitate a satisfactory resolution of any concerns communicated by a resident, a resident's family members or guardians. By December 31, 2001, the division shall report to the general assembly on the effectiveness of the pilot project, and include recommendations for continuing, expanding or modifying the project.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.380. COUNTY MAY MAINTAIN A TUBERCULOSIS HOSPITAL — ISSUANCE OF BONDS. — The several counties of this state are hereby authorized to purchase land, and locate, build, equip, and maintain thereon a tuberculosis hospital and dispensary. Bonds may be issued therefor in accordance with the general law governing the issuance of bonds by counties.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.390. BOARD OF TUBERCULOSIS HOSPITAL COMMISSIONERS — QUALIFICATIONS — APPOINTMENT — TERMS — DUTIES, ANNUAL REPORT. — 1. The county commission shall appoint five persons who shall constitute a board to be known as "The Board of Tuberculosis Hospital Commissioners". A majority of said board shall constitute a quorum and shall be authorized to transact the business of the board.

2. Said board shall have exclusive control of all moneys collected to the credit of the tuberculosis hospital fund, and of the supervision, care and custody of such hospital, and all moneys received for such hospital purposes, whether by sale of said bonds or by an appropriation from the taxes collected annually in each county for the maintenance and support of said hospital, or from any other source, shall be turned over to the treasurer of said board, and shall be duly accounted for in monthly and annual reports made to said board, a copy of which shall be filed with the clerk of the county commission. The board of tuberculosis hospital commissioners shall serve without compensation except actual traveling and incidental expenses incurred in the performance of their duties.

3. They shall have resided in such county for at least three years prior to their appointment, shall be known for their intelligence, business qualifications and integrity, and shall be especially interested in the purposes of said hospital, either because of scientific knowledge in the prevention of tuberculosis or because of their beneficent attitude toward those afflicted with tuberculosis, and shall be selected without regard to their political affiliations, and not fewer than two of them shall be women nor fewer than two of them shall be men.

4. The board of tuberculosis hospital commissioners first appointed shall serve respectively for one, two, three, four and five years from the date of their appointment, and the term of each shall be fixed by the order of the county commission appointing them, and all such board of tuberculosis hospital commissioners after the first appointment shall be appointed for the full term of five years, except that in case of a vacancy, occurring from death, resignation, removal from the county or removal for cause, a board of tuberculosis hospital commissioner shall be appointed to fill the remainder of said term.

5. The board of tuberculosis hospital commissioners shall meet within sixty days after the date of appointment, and shall elect one of their number to be chairman of said board, another to be vice chairman and another to be secretary, for a period of one year, and thereafter annually said officers shall be elected by said board. Said board shall annually elect a treasurer who shall not be a member thereof, and shall require him to give a bond, to be approved by the prosecuting attorney of the county and by the county commission, in a sufficient sum to secure the faithful keeping and accounting for of all moneys which may come into his hand, and shall fix his compensation for the services to be rendered.

6. Said board of tuberculosis hospital commissioners shall have power and it shall be its duty to administer all affairs pertaining to the maintenance of said tuberculosis hospital and dispensary, including the control and direction of all officers and employees of said hospital and dispensary and to establish the rules and regulations for the control and restraint of all patients of such hospital and dispensary and otherwise to perform all acts needful for the proper execution of the powers and duties granted and imposed upon said board by the provisions of sections 205.380 to 205.450. Said board shall have power to employ a superintendent, or a superintending physician, or a superintending nurse, and such other nurses and employees as it deems necessary for the proper care of the hospital and its inmates and shall fix their respective salaries and compensation, but all expenses for such employees and the necessary maintenance of such hospital to be incurred or paid shall be kept within the limits of the annual income of said hospital.

7. All nurses so employed shall be lawfully licensed or registered according to the laws of the state. Any such employee may be removed by said board at any time if in its judgment such removal will promote the economic administration or best interests of said hospital, preference being given to nurses who have had training in a public tuberculosis hospital or sanatorium.

8. Said board shall also have power to prescribe rules and regulations for the sanitation, disinfection and healthful conditions of said hospital, and the kind of clothes to be worn by the inmates and attendants and the foods to be eaten by said inmates, and make other regulations pertaining to fresh air and healthful surroundings as to them may seem most helpful to the treatment of tuberculosis patients.

9. No expense or debt of any kind shall be incurred by the superintendent or any nurse or employee of said hospital except upon the authority of said board, and said board shall require the superintendent or some other employee to keep a faithful account of all expenses of every kind incurred in the maintenance of said hospital.

10. Said board shall make an annual report to the state department of social services, showing the number of patients or inmates in said hospital and the manner of caring for and treating them, and any other beneficial information, and such state department of social services

shall furnish to said hospital board any beneficial or scientific information it may consider would be helpful to such hospital board in conducting same.

11. The said board shall establish an office in its county where all records, papers and documents of such board shall be kept open for public inspection during all reasonable hours, to be fixed by said board. It shall hold a regular meeting on the first Monday of each month, in the office so established, except that by unanimous consent said board may meet at any place in the county and without notice, and transact any such business as may be transacted at any regular meeting. The board shall also hold an annual meeting the first Monday of January of each year, and at said time require an annual certified report to be made to the county commission and to the governor of the state, embracing a full statement of the number of patients of all kinds, the amount of moneys received within the preceding year, and from what sources, and how expended, and especially the number of charity patients and the moneys received from the state and from the county therefor.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.400. PURCHASE OF PROPERTY — CONDEMNATION. — Just compensation shall be paid for all property taken for the establishment of such hospital and the improvements or additions thereto. When the board of tuberculosis hospital commissioners and the owner of any land or other property desired for the uses of said hospital cannot agree upon the price thereof, the same may be condemned in the manner prescribed by chapter 523, RSMo. In case there shall be located upon any land acquired by said board, either by purchase or condemnation, any building or other improvements not suited for hospital purposes, the tuberculosis hospital board shall have power to sell the same and the proceeds thereof shall be turned over to the treasurer of said board.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.410. COUNTY COMMISSION MAY RECEIVE GIFTS. — 1. The county commission of any county in which a tuberculosis hospital has been established is hereby authorized to receive and to hold in trust for the board of tuberculosis hospital commissioners of such hospital any grant or devise of land or any gift or bequest of money or other personal property, as an endowment of such hospital, and if money, or if other personal property, to convert the same into money, and to loan the same at the best rate of interest obtainable, regard being had for the safekeeping and permanency of said fund, and to turn over the net annual income from any such real estate or from any money loaned, to said hospital board; or if advisable, to sell any such real estate and convert the same into money and loan it as aforesaid, or if not sold to authorize said board to rent or lease the same and receive the income therefrom. In case of sale of any real estate so given or devised a complete conveyance thereof may be made by an order spread upon the records of the county commission and a deed signed in pursuance thereto by the presiding commissioner and attested by the county clerk.

2. Any such real estate or personal property so given shall be used inviolate for the purposes of said hospital, unless otherwise designated in writing by the donor.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.420. PATIENTS, HOW ADMITTED — BOARD TO DETERMINE STATUS — NONRESIDENT PATIENTS ADMITTED, WHEN. — 1. Any person who shall be a resident of any county which has erected and is maintaining a hospital under the provisions of sections 205.380 to 205.450, shall be eligible as a patient or inmate of said hospital, providing that said person shall have been declared tuberculous and in a relatively advanced state of tuberculosis, by the county health officer or by a physician licensed by this state, resident within the county.

2. Said board of commissioners shall have the power to determine whether or not the person applying or being presented at such hospital for treatment as a patient is a subject of charity, and it shall fix such a price or compensation for the keeping and all services to be rendered to patients other than those declared subjects of charity by said board, the receipts therefrom to be paid monthly to the treasurer of the board upon accounts rendered and credited to the hospital fund, and shall be available for use in the maintenance and repair of such hospital.

3. The board may also admit tuberculous persons residing outside of the county anywhere within the state on the payment of a monthly compensation to be fixed by said board, and all moneys so obtained shall be applied as in the case of other pay patients.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.430. STATE ASSISTANCE FOR SUPPORT AND TREATMENT OF PATIENTS. — 1. The state of Missouri shall pay twenty-five dollars per day each for the support of all patients admitted to the hospital and maintained therein and who have been designated by the board of tuberculosis hospital commissioners as subjects of charity, but no payment shall be made by the state for such patients for whom the hospital receives a reasonable reimbursement of the costs of care and maintenance from private or federal sources. All costs for the maintenance of charity patients in excess of twenty-five dollars per day shall be paid by the county from its current revenue, upon orders or vouchers rendered to the county commission by the hospital board.

2. All patients of the hospital who are not subjects of charity shall pay such sum for their support and maintenance as they are able to pay as determined by the judgment of the board, and the state of Missouri shall pay such additional amount as may be necessary to compensate the board for their support and maintenance, but not to exceed the sum of twenty-five dollars per day per patient.

3. The general assembly shall at each annual session make an appropriation out of the general revenue fund of the state sufficient in amount to meet its obligations to any county hospital as herein designated.

4. The chairman and secretary of the board of tuberculosis hospital commissioners shall make report to the treasurer of the board once per month, giving the names and number of patients in such hospital and indicating which patients are subjects of charity and the amount necessary for the state to pay. The treasurer of the board shall issue a voucher to the commissioner of administration giving this information, and a warrant shall be issued on the state treasurer for the amount shown by the statement. The state treasurer shall pay the warrant to the treasurer of the board of tuberculosis hospital commissioners. The county commission in any county in which such a hospital shall be established shall authorize and issue the warrant of the county payable out of the current revenue of the county, in favor of the treasurer of the board, for payment of the costs of all charity patients kept and treated herein, in excess of twenty-five dollars per day as herein provided, upon a like voucher presented to the commission by the treasurer of the tuberculosis hospital.

5. Every such hospital shall, so long as the state pays not less than twenty-five dollars per day per patient for the support of charity patients therein, receive patients from any county in this state, in which case every such county shall pay to the hospital the difference between the sum of twenty-five dollars per day per patient and the cost of the care and support of the patient in the hospital; such cost shall not exceed the per capita cost for the year next preceding, for the care and support of patients in the rehabilitation center at Mt. Vernon. This shall supersede any municipal ordinance giving preference to residents of the respective cities in which the same are located.

6. The state shall pay eight dollars per week each for the follow-up examination and treatment, including drugs of charity patients released on an outpatient basis.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.440. STATE MAY PURCHASE HOSPITAL — HOW MANAGED. — That the department of social services be, and is, hereby authorized and empowered to purchase from the board of tuberculosis hospital commissioners of any county of this state, wherein a tuberculosis hospital may now or hereafter have been erected and operated continuously under sections 205.380 to 205.450 for a period of more than five years, all right, title, and interest of said board of said tuberculosis hospital commissioners and of the county so erecting and operating such tuberculosis hospital, in and to the buildings, equipment and land constituting the site of such hospital, at and for the nominal consideration of one dollar, and the board of tuberculosis hospital commissioners of every such county is hereby authorized and empowered to convey title to such hospital buildings, equipment and site, to said department of social services, for and in consideration of the said sum of one dollar, same to be in full payment of the purchase price of said property; provided, that no such sale shall be made unless the same shall first have been authorized and directed by an order of the county commission of such county duly made and entered of record; and provided further, that whenever any such hospital shall be purchased by the department of social services as herein authorized, the conduct and management of said hospital shall thereafter be governed by the provisions of chapter 199, RSMo.**]**

EXPLANATION: This section is ineffective; there are no tuberculosis hospitals in Missouri.

[205.450. CHARITY PATIENTS IN CITY TUBERCULOSIS HOSPITALS. — 1. All tuberculosis hospitals owned and operated by any city under special charter or by any city organized and operating under a constitutional charter shall receive the same support for charity patients and for patients able to pay only part of the total cost for their support and maintenance therein as is now provided for patients in county tuberculosis hospitals under the provisions of sections 205.380 to 205.450.

2. The director of the department of public health of the city shall make a report to the city treasurer once per month giving the names, addresses, and hospital numbers of such patients in the hospital and the amount necessary for the state to pay.

3. The city treasurer shall issue a voucher to the commissioner of administration giving this information and a warrant shall be issued on the state treasurer for the amount shown by the statement and the state treasurer shall pay the warrant to the treasurer of the city, who shall deposit and credit the same to the credit of the hospital for the support of such patients, and for no other purpose.

4. Every such hospital, so long as the state shall pay not less than fifteen dollars per day per patient for the support of charity patients therein, shall receive patients from any county in this state, in which case every such county shall pay to the hospital the difference between the sum of fifteen dollars per day per patient and the cost of the care and support of such patient in the hospital, such cost not to exceed the per capita cost, for the year next preceding, for the care and support of patients in the state rehabilitation center at Mt. Vernon.**]**

EXPLANATION: This section is ineffective; there no longer is a county superintendent of public welfare.

[205.900. SUPERVISION OF PAROLED PERSONS BY COUNTY SUPERINTENDENT OF PUBLIC WELFARE. — 1. The county superintendent of public welfare in each county shall give oversight and supervision to prisoners on parole or probation by any court in the state of Missouri and shall investigate applications for clemency when requested to do so by said courts, and shall report in regard to each person placed under his supervision to the court placing said persons under his supervision.

2. The county superintendent of public welfare shall also give oversight and supervision to children placed on parole or probation by the juvenile court or the court having jurisdiction of

children's cases in his county when requested to do so by said court and shall report to said court upon progress of persons thus placed on parole or probation.**]**

EXPLANATION: This section is ineffective by its own provisions; it provides for an unused appropriation during FY94.

[208.177. APPROPRIATIONS, CERTAIN SERVICES, RETENTION AND TRANSFER BY DEPARTMENT. — Appropriations made to the department of health and senior services for medical services for children who were ineligible for Medicaid prior to August 28, 1993, but become eligible because of changes made in section 208.151 shall, if unused for their intended purposes, be retained by the department of health and senior services and upon subsequent appropriation be transferred to the department of social services for the purpose of funding Medicaid expansion.**]**

EXPLANATION: This section is ineffective by its own provisions; the required report was due January 1, 1987.

[208.307. DIVISION OF AGING TO REPORT, CONTENTS. — The division of aging shall submit a report to the general assembly on January 1, 1987, indicating the number of volunteers recruited through the program established under section 208.300 and the number of credited hours of service.**]**

EXPLANATION: Sections 208.550 to 208.571 were repealed in 2005 making this section obsolete.

[208.574. REAUTHORIZATION REQUIRED. — The provisions of sections 208.550 to 208.571 shall be reauthorized every four years.**]**

EXPLANATION: This section is ineffective by its own provisions; the required reports were due December 1, 1999 and December 1, 2002:

[210.879. REPORTS, CONTENTS, WHEN DUE. — The Missouri children's services commission shall, on or before December 1, 1999, deliver its first report of its study and findings to the governor, the speaker of the house of representatives and the president pro tem of the senate. The commission shall study the implementation of alternative sentencing and its impact on children of incarcerated parents and submit a second report with its findings to the governor, speaker of the house of representatives and president pro tem of the senate by December 1, 2002.**]**

EXPLANATION: This section is ineffective by its own provisions; the required report was due January 1, 2001.

[210.930. REPORT TO GENERAL ASSEMBLY, WHEN, CONTENT. — By January 1, 2001, the department shall provide a report to the speaker of the house and president pro tem of the senate with recommendations on:

(1) Ensuring that thorough background checks are conducted on all providers pursuant to sections 210.900 to 210.936 without duplicating background checks that are required or have been conducted pursuant to other provisions in state law;

(2) Ensuring that data obtained from background checks which are currently available or may be required by law after August 28, 1999, are included in the registry;

(3) The feasibility of transferring the responsibility of conducting background checks on providers to the registry;

(4) Including a national screening process on a voluntary and mandatory basis within the registry; and

(5) Effecting Internet access to the registry.**]**

EXPLANATION; This section is ineffective by its own provisions; it establishes a 1998 effective date for certain sections.

[253.561. EFFECTIVE DATE FOR SECTIONS 253.545 TO 253.559. — The provisions of sections 253.545 to 253.559 shall become effective on January 1, 1998.**]**

EXPLANATION: This section is ineffective by its own provisions; the deadline for submitting the required report was in 1985.

[260.037. FEASIBILITY OF STATE OWNERSHIP OF HAZARDOUS WASTE AND RECOVERY FACILITIES, DUTIES. — 1. The environmental improvement and energy resources authority shall study the feasibility of a state owned hazardous waste treatment and resource recovery facility. The authority shall:

(1) Identify the treatment and resource recovery technologies suitable for such a facility;

(2) Determine the optimum areas for the siting of the facility;

(3) Assess the use of economic incentives to local communities; and

(4) Determine whether a state owned facility would be economically feasible.

2. The environmental improvement and energy resources authority may contract with any person and cooperate with any department of state government to meet its obligations under this section. The authority shall report its findings before January 1, 1985, to the department of natural resources and the general assembly.**]**

EXPLANATION: This section is ineffective by its own provisions; the deadline for submitting the required report was in 1988.

[260.038. RESOURCE RECOVERY POTENTIAL, STUDY OF, REPORT. — 1. The environmental improvement and energy resources authority shall conduct a study of resource recovery potential for the state of Missouri. Such study shall, at a minimum:

(1) Determine the amount of solid waste produced and current disposal methods;

(2) Determine the potential markets for resource recovery materials;

(3) Evaluate existing state laws and policies which discourage or encourage resource recovery; and

(4) Identify optimum market conditions necessary to make resource recovery economically feasible in this state.

2. The authority shall report its findings and recommendations to the general assembly, the governor, the department of natural resources and the department of economic development no later than January 1, 1988.**]**

EXPLANATION: This section is ineffective by its own provisions; the deadline for submitting the required report was in 1996.

[260.826. REPORT. — The department of natural resources shall review the effectiveness of sections 260.820 to 260.824 and shall report its findings and a recommendation of whether the provisions of sections 260.820 to 260.824 should be repealed, strengthened or otherwise amended to the general assembly and the governor by January 15, 1996.**]**

EXPLANATION: This section is ineffective by its own provisions; it establishes an effective which has already occurred.

[263.263. SECTIONS 263.261 AND 263.262 EFFECTIVE, WHEN. — The provisions of sections 263.261 and 263.262 shall take effect and be in full force on April thirtieth of the subsequent year as required in subsection 1 of section 263.257.**]**

EXPLANATION: This section expired 12-31-02, but it was amended in 2005.

[277.200. DEFINITIONS. — As used in sections 277.200 to 277.215, the following terms mean:

(1) "Department", the department of agriculture;

(2) "Livestock", live cattle, swine, llamas, alpaca, buffalo, or sheep;

(3) "Packer", a person who is engaged in the business of slaughtering livestock or receiving, purchasing or soliciting livestock for slaughtering, the meat products of which are directly or indirectly to be offered for resale or for public consumption. "Packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer. "Packer" does not include a cold storage plant, a frozen food locker plant exempt from federal inspection requirements, a livestock market or livestock auction agency, any cattle buyer who purchases twenty or fewer cattle per day or one hundred or fewer cattle per week, any hog buyer who purchases fifty or fewer hogs per day or two hundred fifty or fewer hogs per week, or any sheep buyer who purchases fifty or fewer sheep per day or two hundred fifty or fewer sheep per week.**]**

EXPLANATION: This section expired 12-31-02.

[277.201. ENFORCEMENT OF LIVESTOCK PACKERS LAW TO BE CONSISTENT WITH FEDERAL ACT. — Sections 277.200 to 277.215 shall be enforced in a manner which is consistent with the Packers and Stockyards Act (7 U.S.C.A. 181 et seq.) as it relates to live cattle, swine or sheep.**]**

EXPLANATION: This section expired 12-31-02.

[277.202. UNLAWFUL ACTS. — It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form to:

(1) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(2) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(3) Sell or otherwise transfer to or for any other packer or buy or otherwise receive from or for any other packer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(4) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(5) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(6) Conspire, combine, agree, or arrange, with any other person to apportion territory for carrying on business, or to apportion purchases or sales of any article, or to manipulate or control prices; or

(7) Conspire, combine, agree or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d) or (e) of 7 U.S.C.A. 192.**]**

EXPLANATION: This section expired 12-31-02.

[277.206. PACKER TO PROVIDE PRICES PAID FOR LIVESTOCK, TO WHOM, WHEN. — A packer shall provide to the agricultural market service livestock market news branch of the United

States Department of Agriculture and to the Missouri department of agriculture all prices paid for livestock, both contract and direct purchase, by 9:00 a.m. the following business day.**]**

EXPLANATION: This section expired 12-31-02.

[277.209. VIOLATIONS — PENALTY. — 1. Any agreement made by a packer in violation of sections 277.200 to 277.215 is voidable.

2. Any packer acting in violation of sections 277.200 to 277.215 is guilty of a class A misdemeanor.**]**

EXPLANATION: This section expired 12-31-02.

[277.212. VIOLATIONS REFERRED TO THE ATTORNEY GENERAL. — The attorney general shall enforce the provisions of sections 277.200 to 277.215. The department of agriculture shall refer violations of the provisions of sections 277.200 to 277.215 to the attorney general. The attorney general may bring an action pursuant to the provisions of chapter 407, RSMo, for any remedy allowed for unlawful merchandising practices.**]**

EXPLANATION: This section expired 12-31-02.

[277.215. DAILY REPORT OF PRICES PROVIDED BY PACKERS — FORMS — PENALTY — RULES, PROCEDURE — EXPIRATION DATE. — 1. Each packer shall make available for publication and to the department of agriculture a daily report setting forth information regarding prices paid for livestock under each contract in force in Missouri in which the packer and a Missouri resident are parties for the purchase of livestock by the packer and which sets a date for delivery more than fourteen days after the making of the contract.

2. The report shall be completed on forms prepared by the department for comparison with cash market prices for livestock and livestock carcasses according to procedures required by the department. The report shall not include information regarding the identity of a seller.

3. Any packer who fails to report as required by this section is guilty of a class A misdemeanor.

4. The department shall adopt rules to implement the provisions of sections 277.200 to 277.215.

5. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

6. In the event a federal law regarding livestock price reporting becomes effective, the department of agriculture shall immediately adopt such rules as are necessary to permit Missouri producers and packers to remain economically competitive with producers and packers in other states.

7. Sections 277.200 to 277.215 shall expire December 31, 2002.**]**

EXPLANATION: This section is ineffective by its own provisions; it includes inapplicable gender references.

[292.170. SEATS FOR WOMEN. — In every manufacturing, mechanical, mercantile and other establishment in this state wherein girls or women are employed there shall be provided and conveniently located seats sufficient to comfortably seat such girls or women, and during such times as such girls or women are not necessarily required by their duties to be upon their feet, they shall be allowed to occupy the seats provided.**]**

EXPLANATION: This section is ineffective; the requirements for foundries have been superseded by OSHA requirements.

[292.260. TOILET ROOMS AND ROOMS FOR CHANGING CLOTHING TO BE PROVIDED. — Every corporation, company or person in this state engaged in operating any foundry in which

four or more men are employed is hereby required to provide suitable toilet rooms, containing washbowls or sinks provided with running water hot and cold, shower baths, water closets connecting with running water, and a suitable room or place wherein the men may change their clothes, said room to be directly connected with the foundry building, properly heated, ventilated and protected with a suitable locker or place to properly change his clothing or wearing apparel.**]**

EXPLANATION: This section is ineffective; the requirements for foundries have been superseded by OSHA requirements.

[292.270. GANGWAYS, WIDTH OF — TO BE KEPT CLEAR — TO HAVE DIRT FLOORS — VENTILATION. — In all establishments mentioned in section 292.260, all gangways shall be not less than eight feet wide, shall be kept dry and free from any and all obstructions during all times when employees are working therein. All such gangways shall have dirt floors and shall be under water-tight roof; all water tanks shall be so placed that the top thereof shall be not less than thirty inches above the level of the floor; shall be kept clear of any gangways and shall have an outlet near the top thereof, which outlet shall be connected with a sewer or other receptacle sufficient to prevent the overflow of such tank upon the floor of such establishment. Every corporation, company or person engaged in operating any such foundry shall provide and maintain adequate and efficient devices for carrying off all poisons or injurious fumes, gases and dust from such foundry.**]**

EXPLANATION: This section is ineffective; there are no tenement or dwelling houses in Missouri that manufacture the items listed.

[292.550. MANUFACTURING OF ARTICLES IN DWELLING HOUSES. — No room or apartment in any tenement or dwelling house shall be used by more than three persons, not immediate members of the family living therein, for the manufacture of any wearing apparel, purses, feathers, artificial flowers or other goods for male or female wear. Every person, firm or corporation contracting for the manufacture of any of the articles mentioned in this section, or giving out the complete material from which they are to be made, or to be wholly or partially finished, shall keep a register of the names and addresses of all persons to whom such work is given to be made or with whom they have contracted to do the same. Such register shall be produced for the inspection, and a copy thereof shall be furnished to the director of the inspection section on demand.**]**

EXPLANATION: The duties of this advisory group expired 3-1-00.

[302.295. ADVISORY WORKING GROUP ESTABLISHED TO RESEARCH RELATION BETWEEN .08 BAC LAWS AND ALCOHOL-RELATED FATALITIES, COMPOSITION, REPORT. — 1. Beginning September 1, 1999, for the purpose of providing additional support for the premise that .08 BAC laws help reduce alcohol-related fatalities, an advisory working group is hereby established. The working group is to review the fatal crash experience of all states that have lowered their BAC limits to 0.08 and to determine the impact of this legislation on alcohol-related fatalities. The advisory working group shall consist of the following:

(1) The director of the department of revenue or the director's designee;

(2) The director of the department of public safety or the director's designee;

(3) The director of the department of health and senior services or the director's designee;

(4) The superintendent of the state highway patrol or the superintendent's designee;

(5) The director of the Missouri safety council or the director's designee;

(6) The director of the Mothers Against Drunk Drivers or the director's designee;

(7) Two members of the Missouri senate appointed by the president pro tem of the senate with no more than one from any political party; and

(8) Two members of the Missouri house of representatives appointed by the speaker of the house with no more than one member from any political party.

2. The advisory working group shall submit a report of its findings to each member of the general assembly no later than March 1, 2000.**]**

EXPLANATION: This section is ineffective by its own provisions; it establishes effective dates which have already occurred.

[302.782. EFFECTIVE DATES. — Because immediate action is necessary in order to change state laws relating to commercial motor vehicle operators' licenses in time to conform to federal guidelines, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval, except that sections 302.745, 302.750, 302.755 and subsection 1 of section 302.780 of this act shall not become effective until April 1, 1992, unless the secretary extends beyond April 1, 1992, the date for which all commercial motor vehicle operators must meet the provisions of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), in which case sections 302.745, 302.750, 302.755 and subsection 1 of section 302.780 of this act shall become effective on the new date set by the secretary.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to FY2003 only.

[313.301. $5,000,000 TRANSFERRED FROM LOTTERY PROCEEDS FUND TO SCHOOLS OF THE FUTURE FUND IN FISCAL YEAR 2003. — In fiscal year 2003, there shall be transferred out of the lottery proceeds fund and deposited to the credit of the schools of the future fund created in section 163.005, RSMo, five million dollars.**]**

EXPLANATION: This section expired 12-31-02.

[319.023. OPERATORS OF UNDERGROUND FACILITY NOT IN NOTIFICATION CENTER, DUTIES — RECORDER OF DEEDS, DUTIES. — 1. Except for owners and operators who are participants in a notification center which maintains and makes available a current list of participants, pursuant to section 319.022, all owners and operators having underground facilities within a county shall file with the recorder of deeds in any such county a notice that such owner or operator has underground facilities located within the county and the address and the telephone number of the person or persons from whom information about the location of such underground facilities may be obtained.

2. The recorder of deeds shall maintain a current list of all owners and operators who have filed statements pursuant to this chapter and shall make copies of such list available to any person upon request.

3. The provisions of this section shall expire on December 31, 2002.**]**

EXPLANATION: This section is ineffective by its own provisions; it applies to terms of office for persons in office on September 28, 1981.

[321.121. DIRECTORS, TERMS FOR THOSE IN OFFICE ON SEPTEMBER 28, 1981. — Notwithstanding other provisions of this chapter, members of the board of directors in office on September 28, 1981, shall serve the term to which they were elected or appointed and until their successors are elected and qualified.**]**

EXPLANATION: This section is ineffective by its own provisions; the 1997 effective date has already occurred.

[339.860. EFFECTIVE DATE OF SECTIONS 339.710 TO 339.860. — Sections 339.710 to 339.860 shall become effective on September 1, 1997.**]**

EXPLANATION: This section is ineffective by its own provisions; it only applies to proceedings instituted prior to 8-28-91.

[375.700. DISTRIBUTION OF ASSETS. — 1. Unless reinsurance of a dissolved insurer is effected and its assets conveyed to the reinsuring company as provided by law, and unless such insurer is being rehabilitated under other provisions of sections 375.010 to 375.1246, the receiver, under the direction of the court, shall apply the sums realized from the assets of such insurer in hereafter making any partial or final distribution, in the following order:

(1) To payment of all the expenses of closing the business and disposing of the assets of such insurer;

(2) To the payment of all lawful taxes and debts due the state and the counties and municipalities of this state;

(3) To the payment of policy claims;

(4) To the payment of debts due the United States;

(5) To the payment of the other debts and claims allowed against such insurer, and the unearned premiums and the surrendered value of its policies, in proportion to their respective amounts.

2. A guaranty association which has paid a claim because of insurance coverage afforded by the insurer in receivership may in addition to its reimbursement claim for the amount it paid to a claimant also claim from the receivership and have allowed reasonable allocated loss adjustment expenses incurred and paid by it with respect to such claim on or after January 1, 1986. The receiver and the court shall have authority, however, to inquire into the reasonableness of the allocated loss adjustment expenses claimed and such claim shall not be allowed if it is found to be unreasonable. Any claim amount allowed to a guaranty association as allocated loss adjustment expense reimbursement shall be assigned the same priority under subsection 1 of this section as the claim to which it relates would be entitled had the claim been allowed. A guaranty association shall only be entitled to an allowance for reimbursement of its allocated loss adjustment expenses and shall not be allowed reimbursement for its general administrative expenses.

3. The court shall have authority from time to time upon application of the receiver to make partial distributions upon allowed claims to guaranty associations or other claimants prior to a final distribution from the receivership estate. Prior to doing so, the court shall hold an evidentiary hearing at which time the condition of the receivership estate shall be considered and there shall be presented evidence as to projected claims, projected expenses of administration and projected assets which may be available for ultimate distribution. Before making any such partial distribution the court shall find that such will not prejudice the rights of any other claimants, that such will not hinder the administration of the receivership, and that the distribution being allowed is fair and reasonable. The court may condition any partial distribution upon such terms or conditions as it believes to be in the best interests of the receivership as a whole.

4. If the insurer is a life insurance company and has deposits for policyholders or for the security of registered policies or annuity bonds, such deposits shall be disposed of as provided in sections 375.010 to 375.1246.

5. This section shall apply only to proceedings instituted before August 28, 1991.**]**

EXPLANATION: This section is ineffective by its own provisions; it contains an antiquated provision disallowing a wife to insure the life of her husband.

[376.530. MARRIED WOMAN MAY INSURE LIFE OF HUSBAND. — It shall be lawful for any married woman, by herself and in her name, or in the name of any third person, with his assent or as her trustee, to cause to be insured for her benefit, the life of her husband. And in case of her surviving him, the sum or net amount of insurance becoming due and payable by the terms of the policy shall be payable to her for her own use, free from the claims of the representatives

of her husband, or any of his creditors; provided, the premiums on such policies shall have been paid by her out of her own funds or property.**]**

EXPLANATION: This section is ineffective by its own provisions; it contains an antiquated provision that prohibits an unmarried woman from insuring the life of her brother or father.

[376.550. UNMARRIED WOMAN MAY INSURE WHOM. — It shall be lawful for any unmarried woman, by herself and in her own name, or in the name of any third person, as her trustee, to cause to be insured, for her sole use, the life of her father or brother, for any definite period or during his natural life; and in case of her surviving such person, she shall be entitled to receive the amount of the net insurance, in the same manner as in the cases of married women.**]**

EXPLANATION: This section is ineffective by its own provisions; the 1993 effective date has already occurred.

[382.410. EFFECTIVE DATE. — Sections 382.400 to 382.410 shall take effect on January 1, 1993. Controlled insurers and controlling brokers who are not in compliance with section 382.405 on January 1, 1993, shall have sixty days to come into compliance and shall comply with section 382.407 beginning with all policies written or renewed on or after March 1, 1993.**]**

EXPLANATION: This section is ineffective by its own provisions; it refers to section 562.190 which was repealed.

[388.650. NONREPEALER DECLARED. — Nothing in sections 388.600 to 388.660 shall be construed to repeal or modify the provisions of section 562.190, RSMo.**]**

EXPLANATION: The following sections are ineffective; no street railways have operated in Missouri for decades and any redevelopment of streetcar systems in Missouri based on newer technology would likely result in updated requirements.

[391.030. STREET RAILWAY COMPANIES MAY ACCEPT PROVISIONS OF THIS CHAPTER. — Any street railroad company heretofore organized under any general or special law of this state may have and enjoy all the benefits, powers and privileges of this chapter by filing in the office of the secretary of state a resolution of its board of directors accepting the provisions of this chapter, and paying into the state treasury the same fees as provided in section 391.010.**]**

[391.040. INCREASE OF CAPITAL STOCK AND BONDED INDEBTEDNESS PROVIDED FOR. — Any company formed under this chapter, or accepting the provisions thereof, may increase its capital stock or bonded indebtedness from time to time by the authority of the vote of a majority of the stockholders of such company at a regular annual election for the directors thereof, or at a special meeting of the stockholders of said company called to consider the same upon sixty days' public notice.]

[391.050. PREFERRED STOCK AUTHORIZED. — Any railroad company organized under the provisions of this chapter, or accepting the provisions thereof, may issue preferred stock for such amount and upon such terms and conditions as the board of directors may prescribe, by and with the consent of the shareholders of such company expressed at a regular or special meeting of such stockholders called upon twenty days' published notice or twenty days' written notice to each registered stockholder addressed to him at his last known address.**]**

[391.080. STREET RAILROAD COMPANIES AUTHORIZED TO OPERATE PARALLEL ROADS. — All existing street railroad companies, organized under the laws of this state, which have acquired the consent of the municipal authorities of any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village, for street railroad purposes, are hereby authorized and empowered to lay their track or tracks, and operate their cars

thereon, or operate their roads already constructed on the street or streets, for the full time such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed.**]**

[391.090. CABLE ROADS MAY BE OPERATED ON PARALLEL LINES. — All existing street railroad companies organized under the laws of this state, and all railroad companies authorized to propel their cars, in whole or in part, by means of a cable under the surface of the street, which have acquired the consent of the municipal authorities of any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village for street railroad purposes, are hereby authorized and empowered to construct their roadbeds, including conduit for cable, and lay their track or tracks, and operate their cars thereon for the full time for which such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed.**]**

[391.100. ELECTRIC LIGHT PLANTS MAY OPERATE STREET RAILWAYS. — In all cities and towns of ten thousand inhabitants or less any corporation having the right to operate electric lights or furnish electricity or motive power may extend its business to include the purchase, construction and operation of street railroads. Such extension of business shall be made in the same manner as provided in section 351.090, RSMo.**]**

[391.110. STREETCAR COMPANIES MAY OPERATE ELECTRIC LIGHT PLANTS. — In all cities, towns and villages of ten thousand inhabitants or less, any corporation having the right to operate a street railroad may with the consent of such cities, towns or villages extend its business to include the purchase, construction and operation of electric light or motive power plant; such extension of business shall be made in the same manner as provided in section 351.090, RSMo.**]**

[391.120. ROADS MAY BE USED TO CARRY MAIL. — Street railroad companies are hereby authorized, for such compensation as may be agreed upon, to permit their roads to be used for carrying and distributing United States mail along the routes of such roads, and to furnish proper facilities therefor; provided, however, that such use shall not impede or delay the transportation of passengers over such roads.**]**

[391.140. NOT MORE THAN TWO RAILROAD TRACKS TO BE PLACED IN STREET. — The county commission of any county of this state or the municipal authorities of any incorporated city or town, which now has a population of fifty thousand inhabitants or more and adjoining a city which now has or may hereafter have a population of three hundred thousand inhabitants or more shall have the power and authority when petitioned by a majority of the owners of the land representing more than one-half of the frontage along any public road or street of this state, upon which is now constructed or may hereafter be constructed more than two street railroad tracks, stating in said petition that said public road or street has more than two tracks constructed thereon, and the same is rendered impracticable by reason thereof, the commission may compel said railroad company or companies, or any of said companies, to take up and remove its said track or tracks so as not to leave more than two tracks on said road or street, first giving said railroad company or companies ten days' notice for the time of filing said petition.**]**

[391.150. MAY RUN CARS OVER TRACKS OF ANOTHER COMPANY, WHEN. — Any street railroad company which is or may be hereafter authorized by the county commission or the municipal authorities of any incorporated city or town, to operate a line of street railroad cars along, across or upon any of the public roads or streets, along, across or upon which public roads or streets any other street railroad company owns a street railroad, may be compelled by said county commission or the municipal authorities of any incorporated city or town to permit and

authorize said company whose tracks have been ordered removed to operate and run its cars over the tracks of said other company upon the payment of just compensation to said other company, to be ascertained under the rules and regulations herein prescribed.**]**

[391.160. COMPENSATION FOR USING TRACKS OF ANOTHER COMPANY, HOW FIXED. — 1. When any street railroad company shall be desirous of using the tracks of any other street railroad company, or shall have been ordered by the county commission or the municipal authorities of any city or town to remove any of its tracks from any public road or street, and shall have been authorized by the county commission or municipal authorities to operate and run its cars over the tracks of any other street railroad company upon the payment of just compensation, and an agreement cannot be had between such companies as to the compensation to be paid therefor by the company so desiring or authorized to run its cars over the tracks of such other company, the company desiring to use the track shall make written application to that effect to the county commission or the municipal authorities, accompanied by plans and specifications showing the extent of the track to be used, first giving ten days' notice to the railroad company whose tracks are to be used, of the time and purport of such application.

2. Upon filing of the same with the county commission, or the municipal authorities of any incorporated city or town, with evidence of notice, the county commission, or the mayor of any incorporated city or town, shall give notice to each of the companies to report to the commission, or to the mayor of such city or town, in writing, within ten days thereafter, the name and address of one disinterested resident of the county to act as its chosen track compensation commissioner.

3. Upon the expiration of the ten days, the county commission, or the mayor of any incorporated city or town, shall appoint a third disinterested resident of the county to act as a track compensation commissioner, and shall also appoint one such resident of the county to represent either of such companies which shall have refused or neglected to appoint a track compensation commissioner within the time prescribed in this section.

4. Thereupon the county commission or the mayor, if in the corporate limits of any city or town, shall give notice to the track compensation commissioners so appointed of their appointment, and shall turn over to them all papers in the possession of the county commission or in the possession of the municipal authorities, relating to the matter in controversy, and in case of vacancy in such board of track compensation commissioners, caused by death or refusal to serve of any of the commissioners, or for any other cause whatever, the county commission or mayor shall appoint a track compensation commissioner to fill such vacancy. When appointed, the commissioners shall proceed to determine the compensation to be paid and the time and manner of its payment.**]**

[391.170. REPORT OF TRACK COMPENSATION COMMISSIONERS — PROCEDURE. — Upon the reception of said report of the track compensation commissioners by the county commission, or the clerk thereof in vacation, or the mayor of any city or town, the same shall be filed, together with all papers pertaining to the proceedings, and the clerk of the county commission, or the mayor of any city or town, shall immediately notify the parties of the decision of the track compensation commissioners, and thereupon and on payment by the company making the application, together with all costs and expenses of the track compensation commissioners, and upon the filing with the county commission, or the mayor of any city or town, a good and sufficient bond, to be approved by the county commission, or the mayor of any such city or town, conditioned for the payment to the company whose track or tracks are to be used, of such additional compensation as may be ordered to be paid by the county commission or the municipal authorities of any city or town, or by the circuit court, on any proceedings therein, then said company shall be entitled without further delay to enter upon and run its cars over the track or part of track mentioned and described in the report of such commissioners.**]**

[391.180. PARTIES TO BE NOTIFIED ON FILING OF REPORT BY TRACK COMPENSATION COMMISSIONERS — APPEAL TO CIRCUIT COURT. — Upon the filing of such report of the track compensation commissioners, the clerk of the county commission, or the mayor of any city or town, shall notify both parties to the controversy of the filing thereof, and either party to such controversy may, at any time within ten days after the service of such notice as aforesaid, appeal to the circuit court for a review of the report of the track compensation commissioners, by filing with the clerk of the county commission, or the mayor of any such incorporated city or town, written exceptions to said report and serving a copy of said exceptions upon the opposite party, together with notice of the time of filing the same, and the court may thereupon make such orders therein as right and justice may require, and may order a new appraisement in the manner herein prescribed, upon good cause shown; but notwithstanding such appeal, the company may operate its cars over such track or parts of the track as the report of the track compensation commissioners may designate, and any subsequent proceedings shall affect only the amount of compensation to be paid and the manner and time of payment.**]**

[391.190. CARS TO BE RUN, HOW — TRACK TO BE KEPT IN REPAIR. — 1. The company using the tracks, or parts of the track of another company, under the provisions of sections 391.140 to 391.180, shall run its cars while on said track at the same rate of speed as the cars of the company owning said track, and shall construct and keep its connections with the track of the company so as not to delay or interfere with the cars of the company owning the track. Any company using the track of another company, in whole or in part, shall charge no more than one fare over its whole line.

2. Any company required under the provisions of sections 391.140 to 391.180, to take up and remove its said track or tracks shall repair the road or street in as good condition as before the taking up of said track, and with the same material and under the supervision of the commissioner of roads and bridges.**]**

[391.250. STOOL OR SEAT TO BE PROVIDED THE CONDUCTOR OR MOTORMAN. — It shall be the duty of every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage any street or electrical railway in any part of this state, to furnish, for the convenience, health and comfort of the conductor and motorman and the person or persons operating, controlling and in charge of any and all its cars, one stool or seat for each and every such conductor, motorman or person so operating, controlling or in charge of any of its cars, and allow each and every such motorman, conductor, or person operating, controlling or in charge of each, any and all its said cars to use and occupy said stool or seat for a portion of each and every trip any such car may take for a distance of not less than twenty-five percent of the full length of all the track or tracks traversed by said car.**]**

[391.260. HEATERS TO BE PROVIDED. — It shall be the duty of every corporation, or company that now or hereafter may own, control, operate or manage any electrical railway in any part of this state, to furnish a heater in the front vestibule of the car for the convenience, health and comfort of the conductor and motorman operating, controlling and in charge of any and all its cars. This section shall not extend to electrical railways operated in cities having one hundred and fifty thousand or more inhabitants.**]**

EXPLANATION: This section expired 12-31-02.

[400.9-629. DISPOSITION ORDERED FOR NONCOMPLIANCE OF SECURED PARTY — TERMINATION DATE. — (1) If it is established that the secured party is not proceeding in accordance with the provisions of this part disposition may be ordered or restrained on

appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten percent of the principal amount of the debt or the time price differential plus ten percent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

(3) The provisions of this section shall terminate on December 31, 2002.**]**

EXPLANATION: This section is ineffective by its own provisions; it applied to rental agreements before September 28, 1985.

[415.430. RENTAL AGREEMENTS ENTERED INTO PRIOR TO SEPTEMBER 28, 1985, PROVISIONS GOVERNING. — All rental agreements, entered into before September 28, 1985, which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.**]**

EXPLANATION: This section is ineffective by its own provisions; it contains an antiquated provision regarding a married woman's right to convey real estate.

[442.050. MARRIED WOMEN MAY CONVEY REAL ESTATE OR RELINQUISH DOWER BY POWER OF ATTORNEY. — A married woman may convey her real estate or relinquish her dower in the real estate or relinquish her dower in the real estate of her husband, by a power of attorney authorizing its conveyance, executed and acknowledged by her jointly with her husband, as deeds conveying such real estate by them are required to be executed and acknowledged.**]**

EXPLANATION: This section expired 8-28-06.

[447.721. CONTIGUOUS PROPERTY REDEVELOPMENT FUND CREATED — GRANTS ISSUED TO CERTAIN COUNTIES BY DEPARTMENT, CRITERIA — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, any county of the first classification without a charter form of government and with a population of more than eighty-five thousand nine hundred but less than eighty-six thousand, any city with a population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more then six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

5. The provisions of this section shall expire on August 28, 2006.**]**

EXPLANATION: This section is ineffective by its own provisions; the 1997 date requirement has already occurred.

[454.808. SYSTEM TO BE INSTALLED BY OCTOBER 1, 1997. — The system shall be installed in accordance with federal statutes and regulations by October 1, 1997, for all requirements mandated under federal law up to and including the Family Support Act of 1988, as amended. The system shall be in accordance with the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act, as amended, by October 1, 2000, unless extended under federal law.**]**

EXPLANATION: This section is ineffective by its own provisions; the 1997 effective date has already occurred.

[454.997. EFFECTIVE DATE. — The provisions of sections 454.850 to 454.997 shall become effective July 1, 1997, or upon its passage and approval, whichever later occurs.**]**

EXPLANATION: This section is ineffective; the effective dates have already occurred.

[476.016. SCHEDULE. — 1. House Bill 1634 of the 2nd regular session of the 79th general assembly shall become effective on January 2, 1979, except as provided otherwise in this section.

2. The repeal of those portions of section 483.420, RSMo, providing for the election in 1978 of the clerk of the Cape Girardeau court of common pleas and of section 483.495, RSMo, providing for the election in 1978 of a chief clerk of the magistrate court in each county of the state having more than one hundred twenty-five thousand and less than two hundred thousand inhabitants shall be effective ninety days after adjournment of the second regular session of the 79th general assembly, and the names of any persons nominated for such positions at the primary elections in 1978 shall not be placed on the ballots at the general election in 1978. The provisions of subdivision (2) of subsection 8 of section 483.083, RSMo, shall become effective December 31, 1978.

3. In the event of the passage of an act at the second regular session of the 79th general assembly which repeals and enacts statutes contained in chapters 472, 473, 474, and 475, RSMo, relating to probate matters, the provisions of House Bill 1634 which repeal or enact certain numbered sections within those chapters shall not be effective to the extent that such other enactment repeals or enacts the same numbered sections; provided, however, that any references to "probate court" in any such other enactment is hereby in any event defined to mean the probate division of the circuit court from and after January 2, 1979.

4. Section 483.617, RSMo, shall become effective ninety days after adjournment of the second regular session of the 79th general assembly.

5. Between the period of ninety days after adjournment of the second regular session of the 79th general assembly and January 2, 1979:

(1) Municipalities may adopt ordinances and take other actions that may be needed so that the provisions for municipal judges contained in chapter 479, RSMo, may become operational on January 2, 1979, should a municipality determine to make provision for a municipal judge or judges.

(2) Municipalities may make provision for and select municipal judges who shall take office on or after January 2, 1979.

(3) Courts may adopt rules which shall become effective on or after January 2, 1979.

6. In the event other legislation is adopted at the second regular session of the 79th general assembly providing for new circuit or associate circuit judgeships in particular circuits or particular counties, such new judgeships provided in other legislation shall be in addition to those judgeships provided in the provisions of chapter 478, RSMo, contained within House Bill 1634.

7. In the event of passage of an act at the second regular session of the 79th general assembly which repeals and enacts statutes contained in chapter 202, RSMo, relating to the care, custody and treatment of mentally ill, mentally disordered, developmentally disabled and mentally retarded persons, the provisions of House Bill 1634 which repeal or enact certain numbered sections within that chapter shall not be effective to the extent that such other enactment repeals or enacts the same numbered sections; provided, however, that any references to "probate court" or "court having probate jurisdiction" in such other enactment are hereby in any event defined to mean the probate division of the circuit court from and after January 2, 1979.

8. In the event of the passage of an act at the second regular session of the 79th general assembly which provides for an increase or decrease in the amount of compensation to be paid to an official whose salary is specified in sections contained within House Bill 1634, the amount of such increased or decreased compensation provided in any such separate enactment shall be effective from and after January 2, 1979, notwithstanding the provisions of House Bill 1634.

9. For the period of January 2, 1979, through June 30, 1979, certain words or terms in certain sections of the form of House Bill No. 1006 as finally enacted during the second regular session of the 79th general assembly shall have the following meanings:

(1) In section 6.050 the terminology "judges of circuit courts and courts of criminal correction" shall mean all circuit judges, ex officio circuit judges as provided in section 481.210, RSMo, commissioners of the probate divisions of the circuit courts which are authorized to be

paid by the state by sections 478.266 and 478.267, RSMo, and commissioners of the juvenile divisions of the circuit courts which are authorized to be paid by the state by section 211.023, RSMo, but such terminology shall not include associate circuit judges, ex officio associate circuit judges, or municipal judges.

(2) In section 6.060 the terminology "magistrate judges" shall mean all associate circuit judges and ex officio associate circuit judges as provided in section 481.210, RSMo, but such terminology shall not include circuit judges or municipal judges. (3) In section 6.060 the terminology "magistrate clerks" shall mean clerks for those associate circuit judgeships which on January 2, 1979, replaced magistrate court judgeships.

(4) In section 6.100 the terminology "Kansas City District" shall mean Western District.

(5) In section 6.110 the terminology "St. Louis District" shall mean Eastern District.

(6) In section 6.120 the terminology "Springfield District" shall mean Southern District.

10. The repeal and reenactment of section 211.393, RSMo, shall be effective on July 1, 1979.

11. The provisions of subdivision (1) of subsection 8 of section 483.083 shall become effective December 31, 1978.**]**

EXPLANATION: This section is ineffective; probably no persons still living for whom this section may apply.

[516.060. SPOUSE NOT JOINING IN CONVEYANCE PRIOR TO 1900, BARRED, WHEN. — In all cases where the holder or owner of the legal or equitable title or estate to real estate situate within this state, conveyed any such real estate or any interest therein by deed, mortgage, bond for deed, contract for sale or conveyance of real estate, or by other instrument executed prior to the first day of January, 1900, and the spouse failed to join therein, then such spouse so failing to join therein, or the heirs at law, personal representatives, devisees, grantees or assignees of such spouse so failing to join therein shall be barred from recovering any right, title, interest or estate in and to the lands described in such instrument so executed by the other spouse unless suit is brought therefor within two years after this section takes effect; but in case the right under such distributive share has not accrued by the death of the spouse making any such instrument, then the one not joining therein is hereby authorized to file in the office of the recorder of deeds of each county wherein such land or any part thereof is situate, a notice duly sworn to by the claimant or claimants, setting forth the claim of the affiants, together with the facts upon which such claim or claims rest, the residence of such claimants and a complete description of the land so claimed and affected thereby; and if such notice, as herein provided, is not filed as required by this section within two years from the date this section goes into effect, then such claim or claims shall be forever barred, and no action shall be brought in any court in this state for the recovery of such lands or any part thereof or any interest therein.**]**

EXPLANATION: This section is ineffective by its own provisions; probably no persons still living for whom this section may apply.

[516.065. SPOUSE NOT JOINING IN CONVEYANCE, SUBSEQUENT TO 1900 AND PRIOR TO 1935, BARRED, WHEN. — In all cases where the holder or owner of the legal or equitable title or estate to real estate situate within this state, conveyed any such real estate or any interest therein by deed, mortgage, bond for deed, contract for sale or conveyance of real estate, or by other instrument executed on or subsequent to the first day of January, 1900, and prior to the first day of January, 1935, and the spouse failed to join therein, then such spouse so failing to join therein, or the heirs at law, personal representatives, devisees, grantees or assignees of such spouse so failing to join therein shall be barred from recovering any right, title, interest or estate in and to the lands described in such instrument so executed by the other spouse unless suit is brought therefor within two years after this section takes effect; but in case the right under such

distributive share has not accrued by the death of the spouse making any such instrument, then the one not joining therein is hereby authorized to file in the office of the recorder of deeds of each county wherein such land or any part thereof is situate, a notice duly sworn to by the claimant or claimants, setting forth the claim of the affiants, together with the facts upon which such claim or claims rest, the residence of such claimants and a complete description of the land so claimed and affected thereby; and if such notice as herein provided is not filed as required by this section within two years from the date this section goes into effect, then such claim or claims shall be forever barred, and no action shall be brought in any court in this state for the recovery of such lands or any part thereof or any interest therein.**]**

EXPLANATION: This section is ineffective by its own provisions; it contains an antiquated provision regarding damages assessed against a married woman.

[537.040. MARRIED WOMAN LIABLE ALONE FOR HER TORTS. — For all civil injuries committed by a married woman, damages may be recovered against her alone, and her husband shall not be responsible therefor, except in cases where, under the law, he would be jointly responsible with her, if the marriage did not exist.**]**

EXPLANATION: This section is ineffective by its own provisions; it applied to attorneys representing an indigent client in 1982.

[600.094. PRIOR TO EFFECTIVE DATE OF LAW, PREVIOUSLY APPOINTED COUNSEL TO CONTINUE, UNLESS RELIEVED OF CASE — FEE CLAIM PRESENTED TO DIRECTOR. — 1. Any attorney who on April 1, 1982, is representing an indigent as an appointed counsel shall continue the legal representation of such person until the case is concluded or until the director on behalf of the state public defender system, with the approval of the appropriate court, agrees to assume the representation of the indigent.

2. Appointed counsel who continues to represent a client pursuant to subsection 1 of this section shall present any claims for expenses or fees to the director for payment in accordance with the provisions of sections 600.011 to 600.048 and 600.086 to 600.096 relating to assigned counsel reimbursement.**]**

EXPLANATION: This section is ineffective by its own provisions; the submission of the proposed plan was due September 1, 1992.

[620.528. POLICY SUBMISSION TO GOVERNOR AND GENERAL ASSEMBLY, CONTENT. — No later than September 1, 1992, the Missouri training and employment council shall submit to the governor and to the general assembly a proposed statewide training and employment policy. This policy shall address public and private participation toward achieving Missouri's objective of full employment. The policy shall also address methods to improve federal and state resource use in the providing of job training services and coordination of training and employment activities with other related activities.**]**

EXPLANATION: This section expired 12-31-01.

[620.1310. TASK FORCE ON TRADE AND INVESTMENT CREATED — SPECIAL EMPHASIS ON AFRICA — MEMBERS OF TASK FORCE, QUALIFICATIONS, APPOINTMENT — EXPIRES WHEN. — 1. There is hereby created within the department of economic development the "Task Force on Trade and Investment". The primary duty of the task force is to establish international trade and investment opportunities for Missouri businesses, with a special emphasis on establishing trade and investment opportunities with African countries having a democratic form of government. As part of its duties, the task force shall develop a comprehensive plan of action with strategies for increasing the availability of import and export opportunities for Missouri businesses.

2. The task force created in this section shall be comprised of fifteen members, appointed in the following manner:

(1) Four members of the Missouri house of representatives, two from each political party, shall be appointed by the speaker of the house of representatives;

(2) Four members of the Missouri senate, two from each political party, shall be appointed by the president pro tem of the senate; and

(3) Seven members shall be appointed by the governor, selected from a panel of names submitted by the director of the department of economic development, which panel shall include the names of individuals representing business, labor, education, agriculture, economics, law and government.

3. The task force shall meet at least quarterly, and shall submit its recommendations and plan of action for establishing opportunities for trade and investment to the governor, to the general assembly and to the director of the department of economic development each year by July first, beginning in 1998.

4. Members of the task force shall receive no additional compensation but shall be eligible for reimbursement for expenses directly related to the performance of task force duties.

5. The provisions of this section shall expire December 31, 2001.**]**

EXPLANATION: This section is ineffective; the conditions set forth in this section to delay the effective date for SB 590 enacted in 1994 were not met (see Attorney General's explanation dated 4/3/96).

[643.360. ACT NOT EFFECTIVE UNTIL LAWSUIT FILED BY ATTORNEY GENERAL, INJUNCTION — ACTION, CONTENTS. — This act shall not take effect until a cause of action is filed by the attorney general on behalf of the state of Missouri and other appropriate parties in a federal court of appropriate jurisdiction requesting injunctive relief and to test the constitutionality and legality of sanctions threatened by the Environmental Protection Agency pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., and shall not take effect so long as a temporary restraining order or injunction relating to such sanctions shall be in effect. Such action may allege, among others, that the standards which determine that the St. Louis metropolitan statistical area is a nonattainment area are unreasonable in relation to the sanctions sought to be imposed by the Environmental Protection Agency by virtue of the following:

(1) That there is not sufficient substantial evidence to demonstrate a rational relationship between the ambient air conditions in the St. Louis metropolitan statistical area and the penalties sought to be imposed by the Environmental Protection Agency;

(2) That the standards which determine that the St. Louis metropolitan statistical area is a nonattainment area and the penalties threatened by the Environmental Protection Agency are arbitrary and lack a rational relationship to the overall purpose of the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. in that;

(a) That at only one of the seventeen monitoring sites in the St. Louis metropolitan statistical area have there been more than the allowed number of exceedances during the past three years; and

(b) That for the exceedances at that single monitoring site, there exist purely local causes which do not reflect nor bear a true relationship to the ambient air quality of the St. Louis metropolitan statistical area; and

(3) That the penalties available to be imposed by the Environmental Protection Agency are unreasonable and arbitrary and bear no rational relationship to the ambient air quality of the St. Louis metropolitan statistical area in that:

(a) At the single exceeding monitoring site there exist purely local causes for the exceedances which do not bear a true relationship nor reflect the actual ambient air quality of the St. Louis metropolitan statistical area;

(b) That the state of Missouri should be given a reasonable time to correct the exceedances at the single exceeding site and the penalties should not be assessed nor accrue prior to such time;

(c) That it is unreasonable to impose on the state of Missouri the obligation to expend an estimated one hundred twenty-five million dollars to reach attainment based upon the single exceeding site and the existing local causes for the exceedances where those do not reflect nor bear a true relationship to the ambient air quality of the St. Louis metropolitan statistical area;

(d) That the fifteen percent reduction in volatile organic compound requirement in the federal Clean Air Act bears no relationship to the actual ambient air quality of the St. Louis metropolitan statistical area because the reduction is mandated by the Environmental Protection Agency whether or not the St. Louis metropolitan statistical area reaches attainment status.**]**

EXPLANATION OF CONTINGENT EFFECTIVE DATE;
April 3, 1996

RE: State of Missouri v. United States *Civil Action No. 4:94CV1288*

"As you are aware, SB 590 contains a provision indicating that it would not take effect until a cause of action was filed by this office on behalf of the state in Federal Court testing the constitutionality and legality of the sanctions threatened by the Environmental Protection Agency (EPA). Also, the Act would not take effect as long as any TRO or injunction relating to EPA's sanction would be in effect. See § 643.360, RSMo. "Please be advised that on July l, 1994, this office filed a complaint in the United States District Court for the Eastern District of Missouri requesting injunctive relief and challenging the constitutionality and legality of the threatened sanctions by the EPA. Although a temporary restraining order, preliminary injunction and permanent injunction were all sought in the course of that matter, to date, no such relief has been entered by the court."

Jeremiah W. (Jay) Nixon *Attorney General*
Joseph P. Bindbeutel *Assistant Attorney General*

EXPLANATION: This section expired 4-30-04.

[650.216. EMISSION RESTRICTIONS FOR COAL-FIRED CYCLONE BOILERS — EXPIRATION DATE. — Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire-derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.**]**

Approved July 13, 2007